



— City of —
Melville

AGENDA

FOR THE

ORDINARY MEETING OF THE COUNCIL

TO BE HELD ON

21 APRIL 2009

AT 6.30PM IN THE COUNCIL CHAMBERS

MELVILLE CIVIC CENTRE

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— City of —
Melville

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NOTICE OF MEETING

I respectively bring to the attention of Elected Members that an Ordinary Meeting of the Council will be held in the Council Chambers, Melville Civic Centre, 10 Almondbury Road, Booragoon commencing at 6.30pm on Tuesday 21 April 2009.

The business paper for the Meeting is scheduled below and your attendance is requested.

DR SHAYNE SILCOX
CHIEF EXECUTIVE OFFICER

AGENDA

1. OFFICIAL OPENING

The Presiding Member will cause the Disclaimer to be read aloud by the Governance and Compliance Program Manager.

The Presiding Member will cause the Affirmation of Civic Duty and Responsibility to be read aloud by an Elected Member.

Affirmation of Civic Duty and Responsibility

I make this Affirmation in good faith on behalf of Elected Members and Officers of the City of Melville. We collectively declare that we will duly, faithfully, honestly and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgement and ability. We will observe the City's Code of Conduct and Standing Orders to ensure the efficient, effective and orderly decision making within this forum.

2. PRESENT

3. IN ATTENDANCE

4. APOLOGIES AND APPROVED LEAVE OF ABSENCE

4.1 APOLOGIES

4.2 APPROVED LEAVE OF ABSENCE

Nil

5. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION) AND DECLARATIONS BY MEMBERS

5.1 DECLARATIONS BY MEMBERS WHO HAVE NOT READ AND GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPERS PRESENTED BEFORE THE MEETING.

5.2 DECLARATIONS BY MEMBERS WHO HAVE RECEIVED AND NOT READ THE ELECTED MEMBERS BULLETIN.

6. QUESTION TIME

At the March 2009 Ordinary Meeting of Council Ms Mandy Clark asked several questions relating to the South Metropolitan Regional Council. These questions were taken on notice as Ms Clark was not in attendance at the meeting. A written response has been forwarded to Ms Clark, below outlines the questions and responses given by the Chief Executive Officer.

6.1 Mandy Clarke, Leeming

Question 1

“Considering the disgraceful and insulting content of the recent SMRC “You Tube” videos towards the residents suffering at the hands of the RRRC Waste Composting Facility’s noxious odour, and the recent action, which we applaud, that the City of Canning has taken action in regard to this issue. What action will the City of Melville be taking in regards to the City of Melville’s SMRC representative, Deputy Chairman of the SMRC, and former President of the West Australian Local Government Association, Councillor Clive Robartson’s involvement in the “You Tube” videos?”

Councillor Robartson was unaware of the Chairman of the SMRC's intention to post the recordings of their site visit on “You Tube”. As such, the City is completely satisfied that Councillor Robartson had no involvement in this matter and that no further action is required.

Question 2

“The City of Canning has recently moved to withdraw from the SMRC’s establishment agreement – I have enclosed the minutes with these questions. The majority of the City of Canning Councillors and Mayor Joe Delle Donne care about the residents and the terrible impact the RRRC WCF odour, and the financial obligations to the SMRC has had on the 1000’s of ratepayers which the RRRC WCF was built so close too. Is the City of Melville considering withdrawing from the SMRC establishment agreement as well?”

The City of Melville accepts its long term commitment to the SMRC Participant’s Agreement and is not considering withdrawing.

6.1 Question Time Continued

Question 3

“Is there going to be any rate hikes this year in regards to costs involved with the SMRC, for example our rubbish rates? If so, how much?”

Any increase in costs associated with the RRRC facility and the SMRC will be passed on to the City of Melville in accordance with the proportions as outlined in the SMRC Participants Agreement. These increased costs would then be reflected in the City of Melville's Refuse Charges.

As the SMRC has not yet prepared its budget for 2009/2010, the City of Melville does not have the information available to it to enable it to calculate what the increases may be. The results of the SMRC's mid year budget review would indicate however that the cost increases will be very significant.

Question 4

“How will the City of Canning's withdrawal from the SMRC's establishment agreement affect the City of Melville's financial obligations to the SMRC? Will the City of Melville's contribution be increased? If so by how much?”

The financial impact of the City of Canning's withdrawal from the SMRC cannot be accurately estimated at this time. However based on the fact that the City of Canning was a very significant participant in the SMRC and the fixed nature of many of the expenses associated with operation of the SMRC, it could be expected that their withdrawal will result in a substantial increase in the financial obligations of the remaining participants in order to fund the SMRC.

7. AWARDS AND PRESENTATIONS

Nil

8. CONFIRMATION OF MINUTES

8.1 ORDINARY MEETING OF COUNCIL – 17 MARCH 2009 [Min_17Mar_2009.pdf](#)

OFFICER RECOMMENDATION

That the minutes of the Ordinary Meeting of Council held on Tuesday, 17 March 2009, be confirmed as a true and accurate record.

8.2 NOTES OF AGENDA BRIEFING FORUM – 7 APRIL 2009

(Notes of the Agenda Briefing Forum will be available on Friday, 10 April 2009)

OFFICER RECOMMENDATION

That the notes of Agenda Briefing Forum held on Tuesday, 7 April 2009, be received.

8.3 GOVERNANCE COMMITTEE MEETING – 10 MARCH 2009

[Min_10Mar_2009.pdf](#)

OFFICER RECOMMENDATION

That the minutes of the Governance Committee Meeting held on 10 March 2009 be noted.

NB: Minutes to be confirmed at next Governance Committee Meeting.

9. DECLARATIONS OF INTERESTDisclosures of Interest

Item No	:
Member	:
Type of Interest	:
Nature of Interest	:
Extent of Interest	:
Request	:
Decision of Committee	:
Decision of Council	:

The Members' and Officers' attention is drawn to the following provisions of the Local Government Act 1995 regarding disclosures of interest;

9.1 FINANCIAL INTERESTS

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision making procedure relating to the matter the subject of the declaration.

9.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

Elected Members and staff are required (Code of Conduct), in addition to declaring any financial interest, to declare any interest that might cause a conflict. The member / employee is also encouraged to disclose the nature of the interest. The member / employee must consider the nature and extent of the interest and whether it will affect their impartiality. If the member / employee declares that their impartiality will not be affected then they may participate in the decision making processes.

10. APPLICATIONS FOR NEW LEAVES OF ABSENCE

11. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

12. PETITIONS

12.1 Petition – Piney Lakes Dog Exercise Area

A petition signed by 47 residents was received by the City of Melville on Friday 6th March 2009. The petition reads as follows -

“We, the undersigned, all being Electors of the City of Melville, do humbly pray that the area between the gazebos and Leach Highway remain open as an off-lead dog exercise area, and a tap be provided for thirsty dogs..”

OFFICER RECOMMENDATION

That the petition bearing 47 signatures be noted and a report be presented to a future Council Meeting.

12.2 Petition – Melville Beach Parade foreshore

A petition signed by 69 residents was received by the City of Melville on Friday 6th March 2009. The petition reads as follows -

“We, the undersigned, all being Electors of the City of Melville, do humbly pray that provision be made for the building of public convenience on Melville Beach Parade foreshore.”

OFFICER RECOMMENDATION

That the petition bearing 69 signatures be noted and a report be presented to a future Council Meeting.

13. REPORTS OF COMMITTEES

13.1 GOVERNANCE COMMITTEE MEETING – 10 MARCH 2009.
[Min 10Mar 2009.pdf](#)

The following item to be presented by the Presiding Member of the Governance Committee

13.1.1 ITEM REQUIRING COUNCIL RESOLUTION

C09/5053 – City of Melville Chief Executive Officer Performance Review

COMMITTEE RESOLUTION (5053)

APPROVAL

- 1. That the next Chief Executive Performance Review includes feedback from the Executive Management Team.**

ADVICE NOTE

Elected Members were of the opinion that feedback from the EMT to the performance of the Chief Executive Officer would be beneficial to the review process

- 2. That the base salary component for the Chief Executive Officer be amended as recommended by the Governance Committee, and the revised base salary change be provided to Council as an attachment under Confidential Cover, to take effect from 20 March 2009.**
- 3. That the performance criteria for the Chief Executive Officer be amended as recommended by the Governance Committee, to reflect agreed changes, and the revised criteria be provided to Council as an attachment under Confidential cover.**

14. REPORTS OF THE CHIEF EXECUTIVE OFFICER

The Presiding Member is to advise Elected Members that when dealing with the following Reports they act in their Quasi-Judicial capacity which means that they are performing functions which involve the exercise of discretion and require a part of the decision making process be conducted in a Judicial Manner. The judicial character arises from the obligation to abide by the principles of natural justice. This on it's part requires the application of the relevant facts to the appropriate statutory regime.

P09/3068 - NEW SCHOOL GYMNASIUM ON LOT 3043 ALL SAINTS COLLEGE, 28 EWING AVENUE, BULL CREEK (AMREC) (ATTACHMENT)

Ward : Bull Creek/Leeming Ward
 Category : Operational
 Application Number : DA-2008-1711
 Property : All Saints College, 28 Ewing Avenue, BULL CREEK
 Proposal : New School Gymnasium
 Applicant : Parry and Rosenthal Architects
 Owner : All Saints College
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Responsible Officer : Mr David Vinicombe
 Manager Planning and Development Services
 Previous Items : Not applicable.

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

P09/3068 - NEW SCHOOL GYMNASIUM ON LOT 3043 ALL SAINTS COLLEGE, 28 EWING AVENUE, BULL CREEK (AMREC) (ATTACHMENT)

KEY ISSUES / SUMMARY

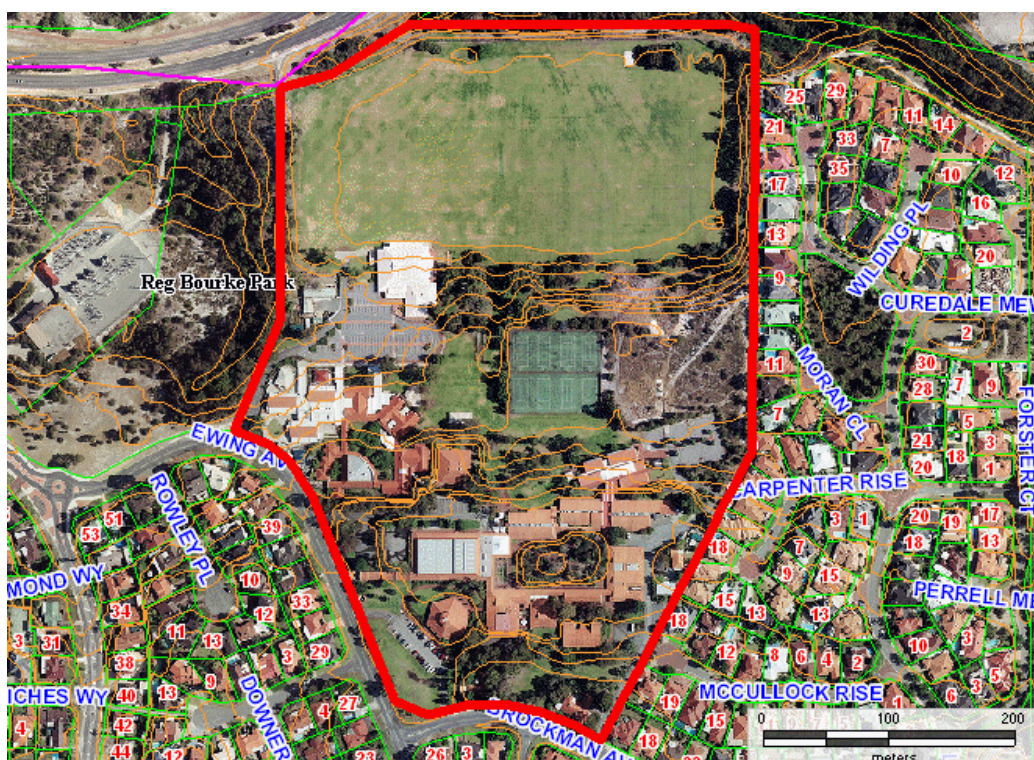
- Planning consent is sought for the erection of a new school gymnasium together with a new access road to the school playing field and the provision of hard and soft landscaping at All Saints College, Bull Creek.
- Proposed building exceeds the maximum building height permissible under the Precinct requirements of CPS No. 5 and therefore requires the exercise of discretion under part 4.2(b) of the Scheme provisions – Absolute Majority decision of Council required.
- Proposed use is an “S” use under CPS No. 5 provisions.
- Proposal is a discretionary use and has been advertised in accordance with requirements of CPS No. 5 – one submission was received, which has been addressed.
- Recommended that the application be referred to Council for conditional approval.

Scheme Provisions

MRS Zoning : Urban
 CPS 5 Zoning : Living area Precinct
 R-Code : R12.5
 Use Type : Educational Establishment
 Use Class : “S” Use

Site Details

Lot Area : 183,521 sqm
 Retention of Existing Vegetation : N/A
 Street Tree(s) : N/A
 Street Furniture (drainage pits etc) : N/A
 Site Details : [3068 Site Plans](#)



P09/3068 - NEW SCHOOL GYMNASIUM ON LOT 3043 ALL SAINTS COLLEGE, 28 EWING AVENUE, BULL CREEK (AMREC) (ATTACHMENT)

DETAIL

Development Requirements

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Plot Ratio	0.4	<0.4	Complies		
Landscaping	33% of site area	>33% of school site is landscaped	Complies		
Building Height	10.5m max	11.2m max	Does not comply	MPDS	

Setbacks

There are no specific setback provisions within CPS No 5 related to this development.

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
 Neighbour's Comment Supplied: One
 Reason: Required in accordance with CPS No. 5
 Support/Object: No objection in principle

The proposed height was advertised at 11.1m. The applicant has since requested that this be raised a further 100mm to 11.2m to improve height clearances for air conditioning ducting. This minor alteration has not been further advertised as it is a minor variation.

P09/3068 - NEW SCHOOL GYMNASIUM ON LOT 3043 ALL SAINTS COLLEGE, 28 EWING AVENUE, BULL CREEK (AMREC) (ATTACHMENT)

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/ Uphold/ Not uphold)
1.	<p>Request that a landscaped buffer be created in the area between the proposed gymnasium and their property.</p> <p>Express concern that noise from activities undertaken outside the normal school day may prejudice their amenity.</p> <p>Express concern that external lighting should not disrupt their privacy.</p> <p>Express concern that the construction of the building will be undertaken at times that will result in minimal disruption to their standard of living.</p> <p>Request that the applicant advise them of the construction programme in relation to this project in due course.</p>	Neither	<p>Agree. A suitably worded condition to require the submission of a landscaping plan to address this request is recommended.</p> <p>Any activities undertaken from the gymnasium will need to comply with the Environmental Protection (Noise) Regulations 1997. A footnote to that effect is attached to all applications of this nature. This will safeguard the neighbour from any adverse impacts as a result of noise emanating from the premises.</p> <p>A condition to regulate the position of external lighting columns and the glare from the lighting itself is recommended. This will safeguard the neighbour from any loss of privacy or amenity.</p> <p>A condition is recommended to restrict the times within which construction can occur. This will ensure that disruption is minimised for the benefit of local residents.</p> <p>In the interests of neighbour relations a footnote to request that the applicant provide details of the construction programme to the neighbour is recommended.</p>	<p>Uphold</p> <p>Uphold</p> <p>Uphold</p> <p>Uphold</p>

**P09/3068 - NEW SCHOOL GYMNASIUM ON LOT 3043 ALL SAINTS COLLEGE, 28
EWING AVENUE, BULL CREEK (AMREC) (ATTACHMENT)****REFERRALS TO GOVERNMENT AGENCIES**

Not applicable.

STATUTORY AND LEGAL IMPLICATIONS

Should the City of Melville refuse this application, the applicant will have the right to appeal the decision in accordance with Part 14 of the Planning and Development Act 2005.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

Not applicable.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

Council could refuse the application on the ground of unacceptable impacts relating to use, traffic and carparking increases in this sector of the site after hours and the potential for undesirable impacts on adjacent residential amenity.

COMMENTS

This application seeks consent for the construction of a new gymnasium at All Saints Anglican College, Bull Creek. The proposed gymnasium is designed to enhance the standard of sporting provision for the current student and teaching cohort, and will replace the existing gymnasium which no longer meets the College's teaching and learning requirements.

The new facility includes the provision of a two court single level gymnasium together with supporting facilities including a classroom, a meeting room, staff preparation area, stores, changing facilities and toilets. Externally the new structure will be complemented by new hard and soft landscaping works, and a new access road from the site of the gymnasium complex onto the adjoining playing fields.

The building is proposed to be constructed using a combination of limestone block, glazing, and vertical composite panel cladding. It is essentially a two storey structure flanked with single storey elements designed to house the supporting facilities.

P09/3068 - NEW SCHOOL GYMNASIUM ON LOT 3043 ALL SAINTS COLLEGE, 28 EWING AVENUE, BULL CREEK (AMREC) (ATTACHMENT)

Whilst it will appear as a flat roofed structure, the roof will be pitched, although the pitched element will be obscured by the full height vertical wall elements.

The application site is located to the north east of the existing school buildings between them and the school playing fields. The site is presently unused and somewhat degraded in terms of its appearance.

The school site comprises an area of 18.3 ha. It has a northern boundary to Leach Highway, and part of its western boundary abuts an area of nature conservation/open space. The remainder of the school campus shares its boundary with existing residential development in Bull Creek. The proposed gymnasium will be sited some 55m away from the nearest residential properties on Moran Close. Existing hard court sports facilities are sited to the immediate east. This will facilitate connectivity between the new and existing facilities.

There are a number of issues for consideration in the determination of this application, including:

- whether the proposal is acceptable in principle in land use terms, and
- whether the proposal is acceptable when judged against the provisions of CPS No 5, specifically in relation to development requirements, requirements in terms of advertising, and the amenity provisions contained therein.

Land Use Considerations

In land use terms the proposed development is acceptable in this location as it relates to the existing school use. There is no change of use proposed as the land in question is part and parcel of the existing school complex.

CPS No. 5 Considerations

Under the provisions of Clause 4.2, where applications for development do not comply with a standard or precinct development requirement prescribed under the Scheme, such as the maximum height provisions, and where the variation is considered to be acceptable in principle when judged against the amenity provisions of Clause 7.8, the details of the application must be the subject of consultation in accordance with the provisions for advertising under Clause 7.5. The views expressed by residents as a result of this consultation process must be taken into consideration prior to a decision being made. Approval for such developments can be granted provided that the variation to the development requirement(s) would not have an adverse effect upon the amenity of local residents.

The details of this application have been advertised in accordance with these requirements as the proposal involves a variation to the maximum height provisions of the Scheme. This consultation has included the erection of a site notice, the publication of a press notice, and individual letters to the owners of residential properties that flank the school site, particularly along its eastern boundary.

The consultation period concluded on 30 March 2009, and no adverse representations have been submitted.

**P09/3068 - NEW SCHOOL GYMNASIUM ON LOT 3043 ALL SAINTS COLLEGE, 28
EWING AVENUE, BULL CREEK (AMREC) (ATTACHMENT)**

One letter has however been received from an owner of a property backing onto the site in Moran Close who, although not opposing the development, have taken the opportunity to request that the Council require the planting of trees and shrubs within the area between the proposed gymnasium and the rear of their residence, that the Council ensure that any “out of hours activities” do not detract from their lifestyle, and similarly to ensure that any external lighting will not prejudice their amenity. A condition to require landscaping is therefore recommended, as is a condition designed to govern the location and intensity of any external lighting. In relation to noise from activities undertaken out of school hours, it is a standard requirement on planning applications of this nature that a footnote is added to decisions drawing the applicants’ attention to the Environmental Protection (Noise) Regulations 1997. Development has to comply with the requirements of that legislation. This will safeguard the occupiers of Moran Close property in accordance with their request. As the final decision on this proposal will be taken by full Council, any further submissions made will be included in the report to Council for the April meetings.

In this case the variation to the maximum height requirements of the Scheme is accepted as the increase in height is modest, 11.1m in lieu of 10.5m, the separation between the proposed building and its nearest neighbour is, at 55m, sufficient to outweigh any negative impacts that might otherwise result, and the addition of landscaping within the area between the proposed building and the nearest residential properties will soften the appearance of the proposed structure further. In addition as the application has been advertised in accordance with Scheme requirements, and as there have been no significant objections raised, it is considered that the variations to the maximum height provisions of CPS No. 5 should be supported.

The construction of a new access road to link the school playing fields to the new gymnasium complex is acceptable in principle and can be readily accommodated in the position shown without detriment to visual or residential amenity. The provision of hard and soft landscaping will complement that which already exists throughout the school campus. Both of these elements of the proposal are supported.

CONCLUSION

It is considered that the proposed gymnasium development is acceptable in principle in land use terms as it will complement the existing educational use that operates from this site. The minor variations sought to the maximum height provisions of CPS No. 5 will, having been the subject of consultation with local residents in accordance with Scheme requirements, not prejudice the spirit or intent of the Scheme provisions. As such it is recommended that subject to the imposition of special conditions related to landscaping and external lighting, together with a footnote with regard to noise control, that conditional Planning Approval be granted.

P09/3068 - NEW SCHOOL GYMNASIUM ON LOT 3043 ALL SAINTS COLLEGE, 28 EWING AVENUE, BULL CREEK (AMREC) (ATTACHMENT)

OFFICER RECOMMENDATION (3068)

ABSOLUTE MAJORITY APPROVAL

- A) That the erection of a gymnasium together with landscaping works and the construction of a new access road on Lot 3043, 28 Ewing Avenue, Bull Creek be conditionally approved by an absolute majority decision of Council subject to the following conditions:**

SPECIAL CONDITIONS:

- 1. Prior to the issue of the Building Licence, the applicant is required to submit a Construction Management Plan for the proposal, to the approval of the Manager Planning and Development Services, detailing how it is proposed to manage:
 - The delivery of materials and equipment to the site;
 - The storage of materials and equipment on the site;
 - The parking arrangements for contractors and subcontractors;
 - Impacts of traffic movements;
 - Hours of construction activity which should be within the period 7.00am-6.00pm Monday-Saturday only with no working on Sundays or public holidays and;
 - Other matters likely to impact on the surrounding residents.**
- 2. On completion of construction, all excess articles, equipment, rubbish or materials and temporary facilities are to be removed and the site and surrounding area used during the development is to be made good and left in an orderly and tidy condition to the approval of the Manager Planning and Development Services.**
- 3. All security alarm devices to be “silent monitored” systems to address potential impacts on surrounding residential amenity to the approval of the Manager Planning and Development Services.**
- 4. The façade of the building and walls to be treated with an anti-graffiti agent to the approval of the Manager Planning and Development Services.**
- 5. Details of the public art, with a minimum value of 1% of the development, as required by Council Policy 25-PL-002 Arts and Culture, to be approved by the Manager Planning and Development Services prior to the issue of a building licence. The approved artwork shall be constructed and installed prior to the occupation of the building and thereafter maintained to the satisfaction of the Manager Planning and Development Services.**
- 6. Prior to the commencement of development a landscaping scheme shall be submitted to and approved in writing by the manager planning and development services. The landscaping scheme shall include the area to the east of the proposed gymnasium between it and the rear of adjacent residential properties. The agreed planting shall be implemented with an agreement for ongoing maintenance prior to the occupation of the gymnasium hereby approved.**

P09/3068 - NEW SCHOOL GYMNASIUM ON LOT 3043 ALL SAINTS COLLEGE, 28 EWING AVENUE, BULL CREEK (AMREC) (ATTACHMENT)

7. Prior to the commencement of development a plan for the provision of external lighting shall be submitted to and approved in writing by the manager planning and development services. The plan shall detail the precise location of any lighting and its intensity. Glare from external lighting shall be minimised in the interests of residential amenity.

STANDARD CONDITIONS:

8. The development is to be connected to the Water Corporation's reticulated sewerage system.
9. Lighting to be provided to entrances to all buildings in accordance with Australian Standard as 1158.3.1 (CAT. P). All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or abutting residences.
10. All sewerage wastes and water pipes to be concealed within the building.
11. Prior to the commencement of any construction the Council requires the provision of a suitable receptacle for the containment of windblown rubbish. The receptacle (generally a wire mesh cage) should have maximum openings of 100mm; have a base of 4sqm and a height of 1m and a hinged lid. The receptacle should not be allowed to overflow.
12. During construction access to the lot to be via the Brockman Avenue frontage only.
13. Electrical installation to be constructed and maintained to the satisfaction of Western Power in accordance with the SAA wiring rules No.CC1, Part 1, 1961.
14. All stormwater and drainage run off to be contained on site. An onsite stormwater drainage system with a capacity to contain a 1:100 year storm of a twenty-four (24) hour duration is to be provided prior to the development first being occupied and thereafter maintained to the approval of the Manager Planning and Development Services. All downpipes to be connected to soakwells. The proposed stormwater drainage system is required to be shown on the Building Licence Submission for approval prior to the commencement of construction.
15. Prior to occupancy the applicant is to arrange for a Practical Completion Inspection to be undertaken by the City and for all relevant conditions to be satisfied to the approval of the Manager Planning and Development Services. In certain circumstances, and at its discretion, a condition may be satisfied in part by way of a legal agreement being in place and bond/bank guarantee being submitted by the applicant/owner to the satisfaction of the Manager Planning and Development Services. Where the development involves the erection of a building a certificate of classification being obtained prior to occupancy.

P09/3068 - NEW SCHOOL GYMNASIUM ON LOT 3043 ALL SAINTS COLLEGE, 28 EWING AVENUE, BULL CREEK (AMREC) (ATTACHMENT)

ADVICE NOTES

- i) The development hereby permitted is to comply with the requirements of the Health Act 1911 (as amended) and the City of Melville Health Local Law 1997.*
- ii) The development hereby permitted is to comply with the Health (Public Buildings) Regulations 1992 (as amended).*
- iii) The use and/or development hereby permitted shall at all times comply with the Requirements of the Environmental Protection (Noise) Regulations 1997. Please consult with Health Services prior to the installation of any noisy equipment.*
- iv) A health licence is required for this development at the building approval stage.*
- v) In the interests of neighbourly relations the applicant is requested to make available to the occupiers of the Moran Close, Bull Creek properties address (address details to be provided by the City of Melville) details of the agreed construction programme. The submission of a construction programme is required in accordance with condition no 1 of this approval.*

B) Applicant and those who made submissions be advised of A) above in writing.

The Presiding Member to advise Elected Members that the Meeting is now moving out of the Quasi-Judicial phase.

P09/3067 - FINAL APPROVAL AMENDMENT NO 51 TO COMMUNITY PLANNING SCHEME NO 5 – GOLDEN EGG FARM SITE AT LOTS 12 AND 20 (43 AND 43A) MCGREGOR ROAD / LEACH HIGHWAY, PALMYRA – INDUSTRY TO RESIDENTIAL R35 AND R60 (REC)

Ward : Palmyra/Melville/Willagee
 Category : Strategic
 Application Number : CPS5-51
 Property : Lots 12 and 20 Leach Highway / McGregor Road
 Proposal : Amend CPS No. 5 to provide Residential R35 and R60
 Applicant : Greg Rowe and Associates
 Owner : Western Australian Egg Marketing Board
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Responsible Officer : David Vinicombe
 Manager Planning and Development Services
 Previous Items : Item P08/5013 Proposed Amendment No 51 to Community Planning Scheme no 5 - Golden Egg Farm Site at lots 12 & 20 - Ordinary Meeting of Council held on 19 August 2008

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

P09/3067 - FINAL APPROVAL AMENDMENT NO 51 TO COMMUNITY PLANNING SCHEME NO 5 – GOLDEN EGG FARM SITE AT LOTS 12 AND 20 (43 AND 43A) MCGREGOR ROAD / LEACH HIGHWAY, PALMYRA – INDUSTRY TO RESIDENTIAL R35 AND R60 (REC)**KEY ISSUES / SUMMARY**

- Amendment proposes to modify CPS No. 5 to provide for the redevelopment of the Golden Egg Farm site at Lots 12 and 20 Leach Highway / McGregor Road, Palmyra by rezoning the site from “Industrial” to “Living Area” and inclusion of a new Precinct – P2-Palmyra 2 which is linked to a future Precinct Development Plan.
- Proposal includes a preliminary Precinct Development Plan providing for the development of 57 lots (56 R35 lots – minimum 235 sqm and average of 244 sqm including one 4 unit grouped dwelling site with an area of 1,057 sqm, and 1 R60 lot with an area of 3,257 sqm providing for up to 18 grouped dwellings or 19 multiple dwellings – average 180 sqm per grouped dwelling and 166 sqm per multiple dwelling) with a total development yield of 77/78 dwellings.
- The preliminary Precinct Development plan provides road widening along Leach Highway, a crescent shaped main internal road linking with McGregor Road with internal service lanes to provide rear/side access for 35 lots.
- The final Precinct Development Plan is required to address a number of detailed design issues. This is proposed to be prepared in consultation with and adopted by Council prior to subdivision of the property.
- The final subdivision plan will require control fencing / retaining to all peripheral roads.
- No POS is proposed, however the proposal faces onto an existing parcel of POS and the applicant has indicated that cash in lieu will be paid. This may be subject to further discussion and negotiation during the preparation of the Precinct Development Plan.
- The proposal was advertised for 42 days and only one (1) objection was received..
- Recommended for Final Approval.

BACKGROUND

The Council at its Ordinary Meeting on 19 August 2008 resolved:

“A) PURSUANT TO PART 5 OF THE PLANNING AND DEVELOPMENT ACT 2005, COUNCIL RESOLVE TO INITIATE AMENDMENT NO 51 TO COMMUNITY PLANNING SCHEME NO 5 BY:

- 1 REZONING LOTS 12 AND 20 MCGREGOR ROAD, PALMYRA FROM “INDUSTRIAL” TO “LIVING AREA”;**
- 2. AMENDING THE SCHEME MAPS ACCORDINGLY;**
- 3. INSERTING A NEW LIVING AREA PRECINCT “P2 – PALMYRA” INTO PART 4.1 OF THE SCHEME AS FOLLOWS:
P2 – PALMYRA**

STATEMENT OF INTENT

P09/3067 - FINAL APPROVAL AMENDMENT NO 51 TO COMMUNITY PLANNING SCHEME NO 5 – GOLDEN EGG FARM SITE AT LOTS 12 AND 20 (43 AND 43A) MCGREGOR ROAD / LEACH HIGHWAY, PALMYRA – INDUSTRY TO RESIDENTIAL R35 AND R60 (REC)

PRIMARILY RESIDENTIAL BUT MAY INCLUDE HOME OCCUPATIONS, PROVIDED THEY ARE NOT DEVELOPED TO SUCH INTENSITY THAT THEY DISTURB THE PRECINCT OR ARE OUT OF CHARACTER WITH THE PARTICULAR CHARACTER OF THE PRECINCT. HOME OCCUPATIONS SHALL BE DETERMINED IN ACCORDANCE WITH CLAUSE 5.6.

DEVELOPMENT REQUIREMENTS

R CODE	R35 / R60, AS PER PRECINCT DEVELOPMENT PLAN ADOPTED BY COUNCIL
MINIMUM LOT AREA	AS PER THE R CODES
MINIMUM FRONT SETBACK	AS PER THE PRECINCT DEVELOPMENT PLAN
MINIMUM SIDE AND REAR SETBACKS	AS PER THE PRECINCT DEVELOPMENT PLAN
MAXIMUM BUILDING HEIGHT	AS PER THE PRECINCT DEVELOPMENT PLAN
MINIMUM CAR PARKING (RESIDENTIAL)	AS PER THE RESIDENTIAL DESIGN CODES
ADVERTISING CONTROL	FLASHING, TOWER AND ROOF SIGNS ARE PROHIBITED. AT THE DISCRETION OF COUNCIL, ONE NON-ILLUMINATED SIGN PER LOT MAY BE PERMITTED TO INDICATE BUSINESS OPERATIONS, GOODS SOLD ON PREMISES AND / OR NAME OF THE PROPERTY, BUILDING, OWNER OR OCCUPIER, NOT EXCEEDING 1.0 SQUARE METRE IN AREA, IN ACCORDANCE WITH CLAUSE 5.10. NO OTHER SIGNS ARE PERMITTED UNLESS APPROVED SUBJECT TO ADVERTISING IN ACCORDANCE WITH CLAUSE 7.5.

P09/3067 - FINAL APPROVAL AMENDMENT NO 51 TO COMMUNITY PLANNING SCHEME NO 5 – GOLDEN EGG FARM SITE AT LOTS 12 AND 20 (43 AND 43A) MCGREGOR ROAD / LEACH HIGHWAY, PALMYRA – INDUSTRY TO RESIDENTIAL R35 AND R60 (REC)

- ADDITIONAL**
- 1. SUBDIVISION AND DEVELOPMENT WITHIN REQUIREMENTS LIVING AREA PRECINCT P2 SHOULD GENERALLY BE IN ACCORDANCE WITH A PRECINCT DEVELOPMENT PLAN ADOPTED BY COUNCIL WHICH SPECIFIES:**
 - I) RESIDENTIAL DENSITIES**
 - II) LOT CONFIGURATION**
 - III) BUILDING SETBACKS AND ORIENTATION OF DWELLINGS**
 - IV) REQUIREMENT FOR OVERALL BUILDING DESIGN AND DEVELOPMENT STANDARDS PRIOR TO CONSTRUCTION**
 - V) BUILDING HEIGHT**
 - VI) LANDSCAPING DESIGN AND MAINTENANCE STANDARDS**
 - VII) FINISHED LEVELS**
 - VIII) FENCING STANDARDS**
 - IX) PROVISION OF FOOTPATHS AND PARKING EMBAYMENTS**
 - X) CROSSOVER/ACCESS ARRANGEMENTS**
 - XI) SERVICING REQUIREMENTS INCLUDING BIN AREAS**
 - XII) PROPOSED ROAD LAYOUT AND UPGRADES TO ABUTTING ROADS**
 - XIII) RETENTION OF SIGNIFICANT TREES**
 - XIV) PREPARATION OF A NOISE IMPACT ASSESSMENT**
 - XV) POS PROVISION / CASH-IN-LIEU**
 - XVI) DESIGN GUIDELINES FOR THE GROUPED AND MULTIPLE DWELLING SITES**
 - XVII) REQUIREMENTS FOR SUSTAINABLE BUILDING DESIGN AND DEVELOPMENT STANDARDS.**
 - 2. THE LOCAL GOVERNMENT MAY ADOPT A MINOR CHANGE TO OR DEPARTURE FROM THE PRECINCT DEVELOPMENT PLAN IF, IN THE OPINION OF THE LOCAL GOVERNMENT, THE CHANGE OR DEPARTURE DOES NOT MATERIALLY ALTER THE INTENT OF THE PRECINCT DEVELOPMENT PLAN AND;**

P09/3067 - FINAL APPROVAL AMENDMENT NO 51 TO COMMUNITY PLANNING SCHEME NO 5 – GOLDEN EGG FARM SITE AT LOTS 12 AND 20 (43 AND 43A) MCGREGOR ROAD / LEACH HIGHWAY, PALMYRA – INDUSTRY TO RESIDENTIAL R35 AND R60 (REC)

WHERE THE CHANGE OR DEPARTURE DOES NOT ALTER THE RESIDENTIAL DENSITY ALLOCATION.

3. IF THE COUNCIL RESOLVES THAT THE CHANGE OR DEPARTURE OF THE PRECINCT DEVELOPMENT PLAN MATERIALLY ALTERS THE INTENT OF THE PRECINCT DEVELOPMENT PLAN, THE CHANGE OR DEPARTURE IS REQUIRED TO BE ADVERTISED IN ACCORDANCE WITH CLAUSE 7.5.
 4. RESIDENTIAL DEVELOPMENT SHALL BE IN ACCORDANCE WITH STATE PLANNING POLICY NO. 3.1 RESIDENTIAL DESIGN CODES (AS AMENDED), EXCEPT WHERE VARIATIONS ARE SPECIFICALLY REFLECTED ON THE PRECINCT DEVELOPMENT PLAN.
4. INSERTING A NEW PRECINCT PLAN INTO APPENDIX 1 OF THE SCHEME;
- B) THAT HIS WORSHIP THE MAYOR AND THE CHIEF EXECUTIVE OFFICER BE AUTHORISED TO ENDORSE THE AMENDMENT DOCUMENT.
- C) THAT THE CITY OF MELVILLE FORWARD A COPY OF THE AMENDMENT DOCUMENTATION TO:
- 1 THE ENVIRONMENTAL PROTECTION AUTHORITY IN ACCORDANCE WITH SECTION 81 OF THE PLANNING AND DEVELOPMENT ACT 2005.
 2. THE WESTERN AUSTRALIAN PLANNING COMMISSION FOR INFORMATION.
- D) THAT ON RECEIPT OF ADVICE FROM THE ENVIRONMENTAL PROTECTION AUTHORITY UNDER SECTION 48A OF THE ENVIRONMENTAL PROTECTION ACT INDICATING THAT THE AMENDMENT NEED NOT BE SUBJECT TO AN ENVIRONMENTAL ASSESSMENT, THE AMENDMENT BE ADVERTISED IN ACCORDANCE WITH THE TOWN PLANNING REGULATIONS FOR NOT LESS THAN FORTY-TWO (42) DAYS.
- E) THE APPLICANT BE ADVISED OF A-D ABOVE AND THAT DETAILED REQUIREMENTS WITH REGARD TO THE PROVISION OF EITHER PUBLIC OPEN SPACE, CASH-IN-LIEU OR A COMBINATION OF THE TWO IS REQUIRED TO BE FURTHER NEGOTIATED WITH COUNCIL PRIOR TO PREPARATION OF THE PRECINCT DEVELOPMENT PLAN.”

P09/3067 - FINAL APPROVAL AMENDMENT NO 51 TO COMMUNITY PLANNING SCHEME NO 5 – GOLDEN EGG FARM SITE AT LOTS 12 AND 20 (43 AND 43A) MCGREGOR ROAD / LEACH HIGHWAY, PALMYRA – INDUSTRY TO RESIDENTIAL R35 AND R60 (REC)

Scheme Provisions

MRS Zoning	:	Urban
CPS 5 Zoning	:	Industrial
R-Code	:	Nil
Use Type	:	Residential
Use Class	:	Use not permitted

Site Details

Lot Area	:	2.6656 ha
Retention of Existing Vegetation	:	Unlikely
Street Tree(s)	:	Yes
Street Furniture (drainage pits etc)	:	N/A
Site Details	:	3067 PrecinctDevelopmentPlan



P09/3067 - FINAL APPROVAL AMENDMENT NO 51 TO COMMUNITY PLANNING SCHEME NO 5 – GOLDEN EGG FARM SITE AT LOTS 12 AND 20 (43 AND 43A) MCGREGOR ROAD / LEACH HIGHWAY, PALMYRA – INDUSTRY TO RESIDENTIAL R35 AND R60 (REC)

PUBLIC CONSULTATION

Amendment No. 51 has been advertised for public comments between 10 February 2009 and 24 March 2009, with 26 letters sent to local property owners. Two signs on site were erected and a notice was placed in the Melville Times.

During the advertising period one (1) submission was received objecting the Amendment on the basis of density of development, traffic, aesthetics and environmental impact. In summary, the submissions have been recommended to not be upheld as the proposal is considered to result in improved environmental, traffic and amenity outcomes. Please refer to details in the attached Schedule of Submissions in the Site Details section.

SCHEDULE OF SUBMISSIONS - AMENDMENT NO. 51

Submission Number	Summary of Submission	Support/ Objection	Officer's Comment	Up Hold/ Not Uphold
1.	<p>Density</p> <p>Many units packed very close to each other.</p> <p>There are a great number of units on McGregor Road which are state housing owned and the population on the street is quite high.</p>	Objection	<p>Along this section of McGregor Road there are only two properties owned by the Department of Housing and Works, with 4 and 9 units respectively and they comply with the R20 coding. The population should accord with that associated with an R20 coding. The rezoning of the site from Industrial to Residential (although higher than the R20 density across the road) is compatible with the Living Area Precinct especially considering the removal of industrial activities on the site. No vehicular access from</p>	Not Uphold

P09/3067 - FINAL APPROVAL AMENDMENT NO 51 TO COMMUNITY PLANNING SCHEME NO 5 – GOLDEN EGG FARM SITE AT LOTS 12 AND 20 (43 AND 43A) MCGREGOR ROAD / LEACH HIGHWAY, PALMYRA – INDUSTRY TO RESIDENTIAL R35 AND R60 (REC)

	<p>Traffic</p> <p>Entry to the proposal will add traffic to McGregor Road.</p> <p>The rise in traffic is a rise in danger when children play outside.</p> <p>The garbage truck would have to drive both ways on the street and the road is narrow and will create a problem for traffic when the truck passes.</p>	<p>Objection</p>	<p>individual houses onto McGregor will be permitted. The only vehicular access to the development will through the 2 main access, one near the intersection with Baal Street and one close to the intersection with Justinian Street.</p> <p>The new proposed coding of R35 and R60 takes advantage of the public transport network and commercial centre located within a walking distance.</p> <p>The residential proposal will add a moderate traffic volume to McGregor Road. It is noted however that the present industrial trucking movement associated with the Egg Farm activities will be removed from McGregor Road. A Transport Statement will be prepared and any traffic management measures to improve safety would be implemented at the subdivision stage.</p> <p>As a worst case scenario, the new development would generate a total of 750 vehicular trips per day, with PM peak hour trips being approximately 85 -</p>	<p>Not Uphold</p>
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P09/3067 - FINAL APPROVAL AMENDMENT NO 51 TO COMMUNITY PLANNING SCHEME NO 5 – GOLDEN EGG FARM SITE AT LOTS 12 AND 20 (43 AND 43A) MCGREGOR ROAD / LEACH HIGHWAY, PALMYRA – INDUSTRY TO RESIDENTIAL R35 AND R60 (REC)

		<p>90 trips in the hour. However it is anticipated that total traffic volumes from all sources, will not increase significantly and should not be more than 1,800 vehicles per day. This is significantly less than the carrying capacity of 3000 vehicles per day for a road such as McGregor Road.</p> <p>McGregor Road (pavement) has an approximately width of 7.4 metres, which is considered acceptable to allow for two vehicles to pass each other while passing a parked car in accordance with the WAPC Liveable Neighbourhoods guidelines.</p> <p>The carriageway width is more than ample for Garbage trucks to service all the residences from the internal road network and laneway configuration shown on the subdivision plan. This will be no different to areas in East Perth, Subiaco, North Perth, Fremantle, Ellenbrook to name a few and complies with Liveable Neighbourhoods concepts and the R Codes. It is not anticipated that rubbish will be collected from</p>	
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P09/3067 - FINAL APPROVAL AMENDMENT NO 51 TO COMMUNITY PLANNING SCHEME NO 5 – GOLDEN EGG FARM SITE AT LOTS 12 AND 20 (43 AND 43A) MCGREGOR ROAD / LEACH HIGHWAY, PALMYRA – INDUSTRY TO RESIDENTIAL R35 AND R60 (REC)

	<p>Aesthetics</p> <p>McGregor Road has many parks situated on it and it is pleasant to look at. More high density housing and adding more cement and construction to McGregor Road will make it a less pleasant to place to live. Property value to home owners may decrease if the proposed development becomes state housing owned or is built in a displeasing design.</p>	<p>Objection</p>	<p>McGregor Road frontage of the subdivision.</p> <p>A detailed design stage of the Precinct Development Plan will be developed and adopted by Council. The proposed residential development will be more compatible with the Living Area Precinct than the existing industrial activities and therefore less detrimental to residential amenity. The property is privately owned; trees on the Council verge will be retained and there will be opportunity to upgrade and landscape the verge.</p>	<p>Not Uphold</p>
	<p>Environmental</p> <p>More people on McGregor Road would add to the garbage and various rubbish and litter to the street as well as animal waste.</p> <p>Several trees, plants and grass would be killed and uprooted to make way for the development.</p> <p>Trucks release smoke into our street as well as the nearby meat processing plant. More traffic would create more issues with pollution.</p>	<p>Objection</p>	<p>Decrease of properties value is not a Planning consideration.</p> <p>As above, existing trees on the verge will be retained and additional landscaping will be recommended at the subdivision stage. Industrial traffic from the existing industrial site onto McGregor Road will be removed. However the smoke from the nearby meat processing plan is not a consideration under this Amendment as the</p>	<p>Not Uphold</p>

P09/3067 - FINAL APPROVAL AMENDMENT NO 51 TO COMMUNITY PLANNING SCHEME NO 5 – GOLDEN EGG FARM SITE AT LOTS 12 AND 20 (43 AND 43A) MCGREGOR ROAD / LEACH HIGHWAY, PALMYRA – INDUSTRY TO RESIDENTIAL R35 AND R60 (REC)

			existing plant is located within an Industrial Precinct and also across the Leach Highway.	
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STATUTORY AND LEGAL IMPLICATIONS

Not Applicable

FINANCIAL IMPLICATIONS

Nil

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Nil

POLICY IMPLICATIONS

On conclusion of the Amendment, the formulation of a Precinct Development Plan and Design Guidelines will be required prior to subdivision as required by the proposed Scheme provisions.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

Council could choose to refuse to request finalisation of the Amendment or recommend modifications. It is noted however, that the Amendment process provides for the Hon Minister for Planning and Infrastructure to approve, refuse or request modifications notwithstanding Council's views on this matter.

P09/3067 - FINAL APPROVAL AMENDMENT NO 51 TO COMMUNITY PLANNING SCHEME NO 5 – GOLDEN EGG FARM SITE AT LOTS 12 AND 20 (43 AND 43A) MCGREGOR ROAD / LEACH HIGHWAY, PALMYRA – INDUSTRY TO RESIDENTIAL R35 AND R60 (REC)

COMMENTS

The proposal has been significantly advanced since its inception and presentation to the Planning Portfolio Meeting in 2007. Notwithstanding, a number of matters have been raised with the applicant over design details. These matters are detailed below, however it is noted that they may be addressed in the design and approval of the proposed future Precinct Development Plan and Design Guidelines which would be required prior to subdivision and development of the site.

Further details required to be addressed in this process by the applicant include the following:

1. Parking and Access - The Precinct Development Plan is to detail access/crossover proposals for lots so as to incorporate street parking embayments and associated tree islands adjacent footpaths on both sides of main access road. The plan should identify that parking access off the access laneway be setback 2.5m.
2. Rubbish Collection - Concern is raised that the corners of the internal access laneway will be too tight to allow rubbish truck access. This will therefore require the Precinct Development Plan to provide through access from the allocated yard areas to the main access road and for those lots backing onto McGregor, provision of bin enclosures adjacent the steps at the lower street level.
3. POS - It is acknowledged that the proposal involves significant landscaping of the extensive McGregor Street verge and retention of significant street trees. It is also acknowledged that the provision of cash-in-lieu for Public Open Space (POS) contribution provides an opportunity to increase the spread of POS throughout the locality, particularly in the northern sector of Palmyra (A). It is noted that Council's POS Strategy indicates that the northern sector of Palmyra (A) is deficient of 13.74 ha POS and the southern sector (B) is deficient 0.62 ha. Further, it is noted that the current deficiency relates to the present residential land area. If the area of this proposal is included and cash-in-lieu is provided, the POS requirement would increase by 10% of that area and accordingly the deficiency in the southern sector will increase to 0.883 ha. Accordingly, the southern sector is better provided with POS than the northern and cash-in-lieu for POS could significantly benefit the northern sector. However, without identification of alternative POS sources within the northern catchment the provision of cash-in-lieu for may not represent value for money in this locality as land to be purchased for this purpose will most likely contain significant improvements which will form part of the purchase price. Accordingly, Council may choose to require the provision of POS within the subdivision, however this matter may be examined in detail during consideration of submissions should Council choose to initiate the Amendment.

P09/3067 - FINAL APPROVAL AMENDMENT NO 51 TO COMMUNITY PLANNING SCHEME NO 5 – GOLDEN EGG FARM SITE AT LOTS 12 AND 20 (43 AND 43A) MCGREGOR ROAD / LEACH HIGHWAY, PALMYRA – INDUSTRY TO RESIDENTIAL R35 AND R60 (REC)

Other matters which require detailed design considerations as part of the detailed design stage of the Precinct Development Plan are included in the Amendment documentation as follows:

- Residential Densities
- Lot configuration
- Building setbacks and orientation of dwellings
- Requirement for overall building design and development standards prior to construction
- Building height
- Landscaping design and maintenance standards
- Finished levels
- Fencing standards
- Provision of footpaths and parking embayments
- Crossover/access arrangements
- Servicing requirements including bin areas
- Proposed road layout and upgrades to abutting roads
- Retention of significant trees
- Preparation of a noise impact assessment
- POS provision / cash-in-lieu

Public Consultation was carried on between 10 February 2009 and 24 March 2009 with one (1) submission being received during the advertising period.

CONCLUSION

The proposal will provide a significant opportunity to redevelop an existing industrial use to create a new residential housing estate within the City of Melville and address a number of long standing incompatibility issues with the adjacent residential area. The provisions proposed under the Amendment provide Council with significant controls under the preparation of the Precinct Development Plan to guide the development of the site to form a high quality residential environment which is sympathetic to the surrounding residential area. Accordingly, it is recommended that the Council grants Final Approval to Amendment No. 51.

P09/3067 - FINAL APPROVAL AMENDMENT NO 51 TO COMMUNITY PLANNING SCHEME NO 5 – GOLDEN EGG FARM SITE AT LOTS 12 AND 20 (43 AND 43A) MCGREGOR ROAD / LEACH HIGHWAY, PALMYRA – INDUSTRY TO RESIDENTIAL R35 AND R60 (REC)

OFFICER RECOMMENDATION (3067)

APPROVAL

THAT COUNCIL RESOLVE THAT

- A) Pursuant to Town Planning Regulation 17(2), that Amendment No. 51 to Community Planning Scheme No. 5 - Golden Egg Farm Site at Lots 12 and 20 (43 and 43A) McGregor Road / Leach Highway, Palmyra – Industry to Residential R35 and R60 be adopted for final approval without modification.**
- B) Scheme Amendment No. 51 documents be executed by His Worship the Mayor and Chief Executive Officer and have the Common Seal affixed.**
- C) Scheme Amendment No. 51 documents be forwarded to the Honourable Minister for Planning and Infrastructure for final approval along with the advice that the Environmental Protection Authority has no objection to the amendment.**
- D) The respondent who made a submission of objection be advised in writing of A)-C) above and be forwarded a copy of the Schedule of Submissions attachment to this report.**

**P09/3070 - RECONSIDERATION OF PEDESTRIAN ACCESSWAY (PAW) CLOSURE
KIDSON STREET AND BERSICA COURT (NEAR NORTH LAKE ROAD), KARDINYA
(REC) (ATTACHMENT)**

Ward : University
 Category : Operational
 Application Number : Not applicable
 Property : PAW between Kidson Street and Bersica Court, Kardinya
 Proposal : To reconsider a request from 31 local residents of Blyth Row and Bersica Court seeking closure of a PAW located between Kidson Street and Bersica Court, Kardinya
 Applicant : Ratepayers of Blyth Row and Bersica Court
 Owner : Crown Land (Department for Planning and Infrastructure – Land Asset management Services)
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Responsible Officer : David Vinicombe
 Manager Planning and Development Services
 Previous Items : P05/6003 - Development and Neighbourhood Amenity Committee Report - 13 December 2005 and Council 20 December 2005

AUTHORITY / DISCRETION

DEFINITION

<input checked="" type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

**P09/3070 - RECONSIDERATION OF PEDESTRIAN ACCESSWAY (PAW) CLOSURE
KIDSON STREET AND BERSICA COURT (NEAR NORTH LAKE ROAD), KARDINYA
(REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- A previous proposal to close the PAW between Kidson Street and Bersica Court, Kardinya was subject to agreement from adjoining owners to purchase the closed portions of the PAW in accordance with Council Policy.
- No responses have been received from adjoining property owners and in accordance with Council's previous resolution; the closure proposal had been abandoned.
- Concern has been raised with regard to the re-instigation of closure procedures without the agreement of adjoining owners to acquire the closed portions of the PAW.
- Closure of the PAW will improve public safety as the PAW has a significant "dog leg" which provides for hidden portions which cannot be viewed from either of the adjoining streets and there is no natural surveillance of this portion of the PAW.
- In view of safety concerns, it is recommended that Council formally advertise the closure of the PAW and on conclusion examine alternatives for closure.
- Whilst closure processes are being examined and progressed, it is recommended that approval be sought for the urgent temporary closure in view of public safety concerns.

BACKGROUND

On 11 November 2005, the City of Melville received a letter containing 31 signatures from local residents of Blyth Row and Bersica Court demanding closure of a PAW linking Kidson Street with Bersica Court.

The request for closure indicated that there had been recent break-ins promoted by the PAW allowing unwelcome people into the street. The PAW serves no useful purpose and if closed, will not disadvantage anyone as adjacent streets provide the same access opportunity to the Kardinya shops and public transport. Closing the PAW will improve security and upward spiral of insurance premiums.

Council resolved on 20 December 2005 that a request for a PAW closure between Kidson Street and Bersica Court, Kardinya be advertised for public comment in accordance with Council Policy and Western Australian Planning Bulletin No. 7 provided that abutting owners agree in writing to purchase the PAW land and relocate services and clearances are obtained from all public utilities. In the event that abutting owners did not agree to acquire the PAW land, closure of the PAW is refused. The report to Council at the time (P05/6003) indicated that in accordance with (former) Planning Policy No. 21 – Pedestrian Accessway (PAW), if support was secured by adjoining owners, then the request for closure could proceed to formal advertising if supported by Council.

Following the former Council resolution with regard to this matter, adjoining owners were requested to advise if they were prepared to acquire the subject land. The letter also clearly indicated that the closure would not proceed unless an owner/owners agreed to acquire the subject land following closure and that no comment would result in the assumption that the owners have no interest in acquiring any portion of the PAW. No comments were received and the matter had been abandoned until enquires raised by an Elected Member with regard to the progression of the closure.

P09/3070 - RECONSIDERATION OF PEDESTRIAN ACCESSWAY (PAW) CLOSURE KIDSON STREET AND BERSICA COURT (NEAR NORTH LAKE ROAD), KARDINYA (REC) (ATTACHMENT)

In order to encourage adjoining owners to support the proposal, subdivision design options were prepared for lots to the side of the PAW which provided for the creation of two new lots (including a variation where one lot would increase its development yield in cooperation with the adjacent property). See attachments: [\(3070 Option 1\)](#) and [\(3070 Option 2\)](#). These options had the potential to provide a significant positive financial outcome for adjoining owners. Valuations of portions the PAW were then sought from the Valuer General's Office. Based on valuations of \$35 - 52,000 (plus GST – dependant on allocation of land) adjoining property owners who would have benefited from closure/subdivision options were invited to discuss the matter. Only two of the adjoining owners attended the meeting and only one (owner of 21 Bersica Court) was prepared to endorse the proposal.

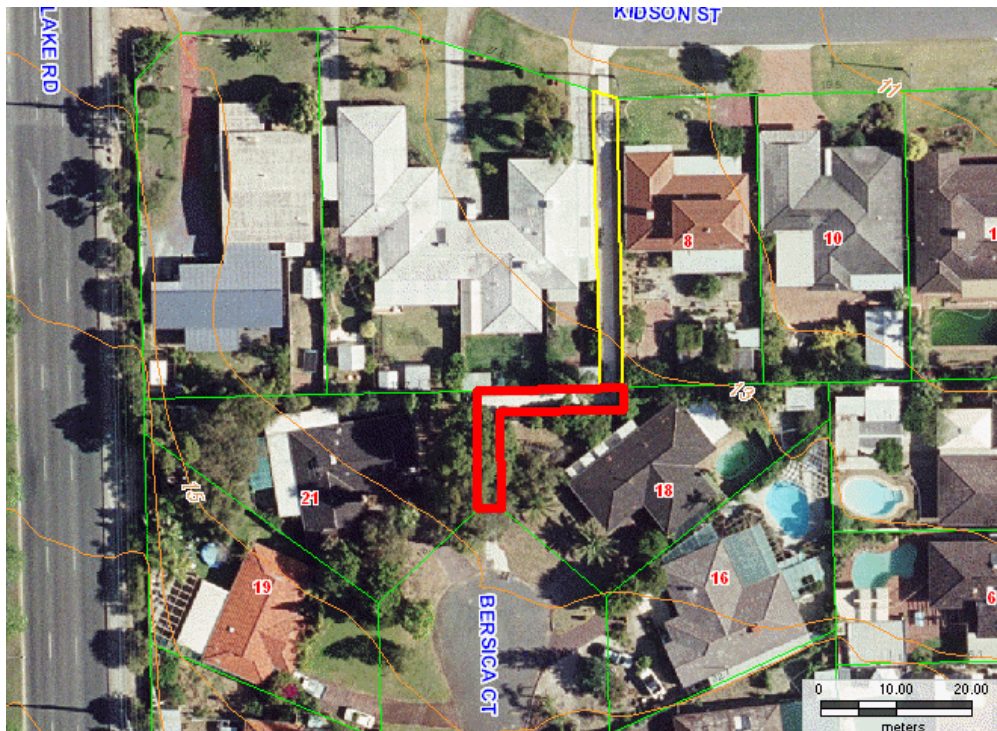
Council will note report P09/3062 - Proposed Advertising of Potential Pedestrian Accessway (PAW) Closure Between August Court and Lochee Way, Bull Creek to Council in March which dealt with another proposal to close a PAW in accordance with the requirements of the Western Australian Planning Commission's Planning Bulletin No. 57. The report indicated that Elected Members may consider that it is premature to advertise this proposal for public comment without considering a strategic approach to public accessway closures within the City. Other Councils address this matter by conducting a comprehensive review of PAW's in their locality. These studies typically identify strategically important pedestrian and cyclist links and measures for their long term retention without unnecessarily creating a detrimental impact on residents. It was noted however that a preliminary assessment of these matters had already been undertaken for that proposal in the context of the report.

Site Details

- Lot Area : Approximately 240 sqm
- Retention of Existing Vegetation : No existing trees on site
- Street Tree(s) : No existing trees on site
- Street Furniture (drainage pits etc) : Concrete path 3.0m wide
- Site Details : See below aerial photographs



**P09/3070 - RECONSIDERATION OF PEDESTRIAN ACCESSWAY (PAW) CLOSURE
KIDSON STREET AND BERSICA COURT (NEAR NORTH LAKE ROAD), KARDINYA
(REC) (ATTACHMENT)**



DETAIL

The PAW contains a significant “dog-leg” resulting in a large area (13m long) which is not visible from either street that it adjoins. In this regard the PAW does not meet modern safety standards. The PAW does not appear to serve any useful purpose as Bersica Court is a short cul-de-sac and closure of the PAW will not significantly impact on pedestrian movement within the locality to major destinations being the Kardinya shops and public transport (see details below).

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required:	Yes, if the closure is supported by Council
Neighbour's Comment Supplied:	Proposal has not been advertised at this stage
Reason:	Statutory requirement of the Land Administration Act 1997
Support/Object:	Not applicable

Should the request for PAW closure proceed to public consultation, any submission received will be presented to Council for consideration.

**P09/3070 - RECONSIDERATION OF PEDESTRIAN ACCESSWAY (PAW) CLOSURE
KIDSON STREET AND BERSICA COURT (NEAR NORTH LAKE ROAD), KARDINYA
(REC) (ATTACHMENT)**

REFERRALS TO GOVERNMENT AGENCIES

Required: Referral to Main Roads Western Australia, utilities, Australia Post, Disability Services Commission and Departments of Education and Training and Planning and Infrastructure.

Reason: Requirement of the Land Administration Act 1997

Support/Object: Consultation to be carried out

STATUTORY AND LEGAL IMPLICATIONS

Insert procedures from previous report

FINANCIAL IMPLICATIONS

If the closure of the PAW was to proceed, the land would need to be fenced off and maintained over a long term period. An initial budget allowance for securing the PAW on closure would be required.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Failure to progress with the proposed closure may result in safety concerns within the obscured portion of the PAW.

Risk Statement	Level of Risk*	Risk Mitigation Strategy
As a result of not closing the PAW, safety concerns with regard to pedestrian usage may result within the obscured portion of the PAW.	A High level of risk is associated with no action.	Progress the closure to formal advertising and provide for future expenditure under the municipal budget in order to physically close the PAW.

* As derived from using the Risk Assessment Matrix

POLICY IMPLICATIONS

Council Policy no longer exists on this matter – all closures are now subject to procedures and guidelines contained in Planning Bulletin 57.

**P09/3070 - RECONSIDERATION OF PEDESTRIAN ACCESSWAY (PAW) CLOSURE
KIDSON STREET AND BERSICA COURT (NEAR NORTH LAKE ROAD), KARDINYA
(REC) (ATTACHMENT)****ALTERNATE OPTIONS & THEIR IMPLICATIONS**

It is estimated that the procedures provided in Planning Bulletin No 57 will take 12 to 18 months to complete. In the mean time, Council could informally consider temporarily closing both ends of the PAW, most likely following the formal consultation period and resolution to formally seek closure. Technically, State Land Services - Department of Planning and Infrastructure (DPI) have indicated that closure procedures would not allow this until the process is well advanced and following approval from the DPI.

Should Council be of the view that the safety concerns are so paramount, physical closure could be considered without formal approvals in place. If the physical closure occurs prior to DPI approval, such may be questioned during the processing of the application. It should be noted that the land is owned by the Crown and is not vested in Council, although we do maintain the present path facility. Physical closure without approval of the landowner would technically be illegal and has therefore not been recommended. It is difficult to determine what the reaction would be if Council closed the PAW without Department of Planning and Infrastructure approval. It is also difficult to determine the impact on a formal closure process, however, it would be reasonable to assume that the safety issues at this PAW are serious and given that limited pedestrian/cyclist connectivity issues will result, that this may not influence the final outcome.

Where agreement cannot be reached on allocation/purchase of land during closure procedures, the Planning Bulletin indicates that other options may be considered inclusive of land management arrangements to reserve or vest the PAW in an appropriate agency for public utility purposes. Agreement to any other alternative not provided for in the Planning Bulletin such as permanently gating each end of the PAW may be considered but are less likely to gain approval of the Department of Planning and Infrastructure.

Other options may be available as Planning Bulletin No. 57 is currently under review (see comments below).

COMMENT

Planning Bulletin No. 57 states the following in relation to the closure of PAWs.

“PAWs have in the past been created as part of the subdivision of land under S. 20A of the Town Planning and Development Act 1928 (TPD Act) as an alternative means of access between gazetted streets and for servicing. Many of those created in the past are narrow and have poor surveillance. PAWs are a part of subdivision design that is now considered incompatible with best practice and Liveable Neighbourhoods.

There are ongoing requests for the closure of PAWs on security and amenity grounds. However PAWs provide access to essential services; and provide pedestrian and cycle access both within neighbourhoods and to local and district facilities including public transport, schools, shops, parks and community facilities. In considering closure requests, a balance needs to be found between resident access to facilities and pedestrian transport, and concerns regarding security and amenity”.

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(REC) (ATTACHMENT)**

To that end Planning Bulletin No. 57 sets out the procedures to be followed by Local Government in considering the proposed closure of PAWs. Local Governments have the initial responsibility to determine whether an application to close a PAW should be progressed by undertaking an assessment which should address the following:

- (i) The impact of closure of the PAW on local pedestrian/cycle connectivity, that is, the additional distance required to be travelled to get from origin to destination after closure, as well as the impact on traffic and activity on remaining PAWs.
- (ii) The impact of closure of the PAW on safe access to neighbourhood and district facilities, including schools and other educational facilities, shopping, parks and recreation facilities, community facilities, employment, public transport services, including bus stops and train stations, aged person and disabled facilities.
- (iii) The length of alternative routes and their safety, surveillance, amenity, useability, gradient and convenience of use, especially for the young, disabled and elderly.
- (iv) The role of the PAW as part of the wider pedestrian/cycle network or continuous access routes, as reflected in any Local Access Plan or in any Local Planning Strategy.
- (v) The incidences of crime and social difficulties being experienced by the adjoining landowners.
- (vi) The views of the adjoining landowners in relation to the PAW closure and a general commitment to purchase (applications will not proceed unless the land can be sold or reserved).
- (vii) Alternatives to PAW closure (see below).

Given that agreement cannot be reached on the purchase of the land once closed, alternatives to closure as recommended by Planning Bulletin No. 57 require consideration. These are:

- temporary closure, where practical
- improvements to safety and security e.g. lighting, active graffiti removal where funding is available
- the use of gates to restrict access at night
- the consideration of longer term redevelopment opportunities such as the re-design of adjacent lots to essential PAWs and their up coding conditional on widening of PAWs to laneways and new frontage development .

**P09/3070 - RECONSIDERATION OF PEDESTRIAN ACCESSWAY (PAW) CLOSURE
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(REC) (ATTACHMENT)**

Whilst these options may present an opportunity for improvement in relation to some PAWs, in the case of routes such as this one where the PAW is doglegged resulting in poor visibility through and compromised surveillance within, the alternative options do not present a satisfactory solution to the inherent problems that exist.

Planning Bulletin No. 57 provides for a final alternative where all other alternatives are inappropriate. This includes “satisfactory land management arrangements being made to reserve or vest the PAW, or portions of the PAW, in an appropriate agency for public utility purposes.”

In this instance, due to disagreement from adjoining owners to purchase the subject land, Council may need to consider such arrangements. In addition, it is proposed that given the seriousness of this matter that Council consider temporarily closing the PAW by gating at either end whilst formal procedures and options to close the PAW are examined and further negotiated with the Department of Planning and Infrastructure.

Accordingly, as public safety is considered paramount, it is therefore considered appropriate to pursue the alternative option (as also provided for in the Planning Bulletin) of land management arrangements to reserve or vest the PAW in an appropriate agency for public utility purposes. It is noted that discussions with the Department of Planning and Infrastructure and State Land Services have been conducted to establish options for Council to consider temporarily closing the PAW by gating at either end whilst formal procedures and options to close the PAW are examined. This matter will require further negotiation with the Department of Planning and Infrastructure and State Land Services.

Review of State Procedures

It has been established through discussions with officers of the Department of Planning and Infrastructure that Planning Bulletin No. 57 is currently under review, with advertising of new processes about to commence. Whilst full details in this regard have not been provided, the following general comments have been received from the Department of Planning and Infrastructure:

“On the 24 February 2009 the WAPC has approved the advertising of two draft planning guidelines to assist in dealing with PAW issues and to enhance (and then supersede) the information contained within Planning Bulletin No.57.

The two draft guidelines will be released for a 2 month public comment period in April and relate to:

- **REDUCING CRIME AND ANTI-SOCIAL BEHAVIOUR IN PEDESTRIAN ACCESSWAYS, AND**
- **PROCEDURE FOR THE CLOSURE OF PEDESTRIAN ACCESSWAYS**

**P09/3070 - RECONSIDERATION OF PEDESTRIAN ACCESSWAY (PAW) CLOSURE
KIDSON STREET AND BERSICA COURT (NEAR NORTH LAKE ROAD), KARDINYA
(REC) (ATTACHMENT)**

The Procedure Guidelines propose to introduce a new, simplified procedure for dealing with the closure of PAWs, based upon Section 87 of the *Land Administration Act 1997* rather than the subdivision provisions of the *Planning and Development Act 2005*. The proposed closure procedure also establishes a clear, timely and transparent decision-making process for the closure or retention of PAWs and temporary PAW closure will be provided for to address serious emergent problems.

The following is an extract from the section within the draft guidelines, directly relating to the temporary closure: -

- *The temporary closure of a PAW may be considered as an alternative to permanent closure where:*
- *Other methods of dealing with safety, crime and anti-social behaviour have proven to be unsuccessful*
- *Permanent closure is not desirable due to the possible need for future access*

Should the WAPC or DPI (Statutory Planning Division) agree to temporary closure, such closure shall be valid for a period agreed between the WAPC or DPI (Statutory Planning Division and State Land Services) and the local government.

However, where the local government prefers formal management, or wishes to lease the subject land to adjoining landholders for management purposes, the State Land Services Business Unit will arrange the issue of a management order, with power to lease. Alternative agreed management arrangements can also be established.

The responsible local government or other management body such as an infrastructure provider can then:

- *Arrange for the temporary closure of the PAW by means of fencing, gates or such other temporary means considered appropriate by the local government*
- *Ensure the PAW is maintained*
- *Ensure infrastructure providers retain access to any services within the PAW*

As the draft guidelines will be advertised for public comment shortly, they do not have final endorsement from the WAPC.

Impacts on Pedestrian Movement

Any closure procedure, as indicated above, is required to be justified in terms of establishing any impacts on pedestrian/cycle connectivity to local facilities and movement through the locality.

**P09/3070 - RECONSIDERATION OF PEDESTRIAN ACCESSWAY (PAW) CLOSURE
KIDSON STREET AND BERSICA COURT (NEAR NORTH LAKE ROAD), KARDINYA
(REC) (ATTACHMENT)**

In this case the closure of the PAW that links Bersica Court with Kidson Street will have limited impact on local pedestrian and cycle connectivity. That is because Bersica Court does not by itself provide enhanced connectivity within the local network of pedestrian routes above and beyond that that exists using other existing routes, such as North Lake Road and Mounsey Street. The aerial extract of the locality included in this report demonstrates the alternative routes available and the distances involved in their use. It also demonstrates the ease with which local residents will be able to access neighbourhood and district facilities once the subject PAW is closed without increased distances (other than to gain access to the local park), as the alternative routes are readily useable as they comprise traditional footways flanked by active residential uses.

This ensures that users benefit from both the passive and active surveillance that occurs naturally in such areas; a distinct benefit which is not available to the users of the PAW. The degree of natural surveillance available is limited by the pattern of residential development that has taken place there, with residences turning their back on the PAW, rather than fronting it as is the case in a more traditional residential layout.

Table 1: “Accessibility Assessment” (next page) demonstrates the relative distances to neighbourhood and district services that will result from the closure of the PAW. This highlights the existing and proposed relationship that exists between the PAW and bus stops on South Street, and that between it and the Kardinya Park and Kardinya Square Shopping Centres. It also includes reference to the distances that will result to the nearest Park, the Laurie Withers Reserve.

The details shown demonstrate that in relation to distances travelled to bus stops located on South Street, shopping facilities in Kardinya Park or the Laurie Withers Reserve, residents who live to the north of the PAW do not derive any benefit from the availability of the PAW in terms of a reduction in the distance to these services. As the bus stops and shopping facilities are located to the south of the PAW, the closure of it will have no impact on the distances travelled by residents who live within the cul de sac. In relation to the accessibility of the Laurie Withers Reserve, the closure of the PAW will reduce the accessibility of this facility for those residents who live within the Bersica Court cul de sac, who will endure a walk of approximately 380m as opposed to their current 170m in order to gain access to that facility. Whilst this increase of 210m is significant, the distance is within the 400m recommended as acceptable by Planning Bulletin No 57.

**P09/3070 - RECONSIDERATION OF PEDESTRIAN ACCESSWAY (PAW) CLOSURE
KIDSON STREET AND BERSICA COURT (NEAR NORTH LAKE ROAD), KARDINYA
(REC) (ATTACHMENT)**

TABLE 1: ACCESSIBILITY ASSESSMENT.

FROM / TO:	EXISTING DISTANCE WITH PAW	PROPOSED DISTANCE WITHOUT PAW
Northern entrance of PAW on Kidson Street to nearest bus stop on South Street heading east and west.	Approx 730m	Approx 700m
Southern entrance of PAW on Bersica Court (between No's 18 and 21) to nearest bus stop on South St heading east and west.	Approx 630m	Approx 630m
Northern entrance of PAW on Kidson Street to nearest shopping facility at Kardinya Park.	Approx 400m	Approx 380m
Southern entrance of PAW (between No 18 and 21) to nearest shopping facility at Kardinya Park.	Approx 327m	Approx 327m
Northern entrance of PAW on Kidson Street to Laurie Withers Reserve.	Approx 100m	Approx 100m
Southern entrance of PAW (between No 18 and 21) to Laurie Withers Reserve.	Approx 170m	Approx 380m (increase of 210m)

The PAW does not form part of a continuous network or route in this locality as defined in any Local Planning Strategy as no such Strategy exists. In any event the closure of the PAW will not prejudice connectivity for pedestrians or cyclists as the area is well served with a number of routes that may be readily used by these groups.

As is referred to earlier in this report there is real concern that the retention of this PAW represents a significant safety issue for the Council. This, coupled with the fact that there is a high degree of support from local residents for closure, means that the likelihood of the Council being able to take this matter forward and proceed to formal closure is high.

**P09/3070 - RECONSIDERATION OF PEDESTRIAN ACCESSWAY (PAW) CLOSURE
KIDSON STREET AND BERSICA COURT (NEAR NORTH LAKE ROAD), KARDINYA
(REC) (ATTACHMENT)****CONCLUSION**

Whilst it is appreciated that the new WAPC proposals are not endorsed, they indicate a clear intent to improve the processes and will specifically provide improved options for permanent and interim temporary closure where safety concerns are paramount and normal allocation and re-subdivision options cannot be achieved. Accordingly, as this PAW presents significant safety concerns and as pedestrian movement through the area does not appear compromised, it may be appropriate for Council to seek urgent approval for a temporary closure of the PAW whilst advertising and formal closure options are considered and processes.

OFFICER RECOMMENDATION (3070)**APPROVAL**

- A) Council resolve to formally advertise the proposed closure of the pedestrian accessway between Kidson Street and Bersica Court (near North Lake Road), Kardinya for a period of twenty one (21) days.**
- B) Council seek comment and clearances from all public utilities in relation to the proposed pedestrian accessway closure.**
- C) Council requests the Department of Planning and Infrastructure and State Land Services to provide urgent approval for the temporary closure of the pedestrian accessway between Kidson Street and Bersica Court (near North Lake Road), Kardinya on the basis that it presents a serious safety concern and that pedestrian movement through the area will not be compromised whilst formal closure procedures are processed and finalised.**
- D) Following conclusion of the formal advertising at A) above, the matter be referred back to Council to detail options for permanent closure inclusive of land management, gating and possible leasing arrangement to adjoining property owners.**
- E) Adjoining property owners and the original petitioner for the closure be advised of A) - D) above in writing.**

T09/3065 - PETITION – TRAFFIC CALMING DEVICES IN DUNKLEY AVENUE, APPECROSS (REC) (ATTACHMENT)

Ward : All
 Category : Operational
 Subject Index : Traffic
 Customer Index : Mrs Sandford, Janet Woollard, MLA
 Disclosure of any Interest : N/A
 Previous Items : T99/3031
 Works Programme : N/A
 Funding : Capital Works - 2009/2010
 Responsible Officer : John Cameron
 Executive Engineer, Roads and Assets

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

**T09/3065 - PETITION – TRAFFIC CALMING DEVICES IN DUNKLEY AVENUE,
APPLECROSS (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- To consider the findings of the recent investigations into traffic conditions on Dunkley Avenue, Applecross.
- To consider various traffic calming options in response to the petitioners requests.
- The report recommends installation of two speed cushions in Dunkley Avenue, Applecross.
- To advise the Petitioners and residents of Dunkley Avenue, Applecross of Council's decision.

BACKGROUND

A petition signed by 375 residents was received by the City of Melville in October 2008 following which Council resolved, "*That the petition bearing 375 signatures be noted and a report be presented to a future Council meeting*".

The petition read as follows:

" We, the undersigned, all being Electors of the City of Melville, do humbly pray that Council will install traffic calming devices in Dunkley Avenue, Applecross between Tompkins Park and Cunningham Street to deter drivers from speeding in the area.

Between October 2003 and January 2006 alone, 39 security incidents, such as speeding motorcyclists and vehicles driving on residents' front verges were reported to the City of Melville. In 2004 a young child was run over and killed by a car on that road. Had the traffic calming devices been present, this death may have been prevented.

The area is popular with families and students who use it for recreational purposes but despite the high patronage, drivers and motorcyclists continue to display anti-social behaviour and hoon driving along Dunkley Avenue, endangering people's lives.

We ask that Council install traffic calming measures in that area as a matter of priority to ensure the ongoing safety of the community."

The petition was forwarded by one of the residents as well as the Member for Alfred Cove, Dr Janet Woollard, MLA who claimed that "*one of the residents lost her 10 year old son in a road accident involving a speeding car in 2004*". The resultant fatal investigation stated however that "*Vehicle speed in excess of the speed limit does not appear to have been a contributing factor*".

A review of the signatories' addresses identified that 6% of the petitioners lived in Dunkley Avenue, many of the households having multiple signatures, whilst 41% of the signatures on the petition came generally from the Applecross area.

Some of the signatories lived as far north as Quinns Rocks and as far south as Atwell and Mandurah and made up 10% of the signatures on the petition.

T09/3065 - PETITION – TRAFFIC CALMING DEVICES IN DUNKLEY AVENUE, APPLECROSS (REC) (ATTACHMENT)

DETAIL

In February 2006, the City of Melville, following a request under “Freedom of Information” provided the petitioner, a summary of 39 “incidents” that occurred between October 2003 and January 2006”. These “incidents” are detailed as follows:

- Seven (7) for suspicious persons or activities;
- Three (3) for damage related calls (graffiti and vandalism);
- Three (3) for “hoon-type” behaviour that were recorded in May, July and December 2005; and
- The remainder were for general incidents such as playing golf on the reserve etc.

It is only the three (3) “hoon” related anti-social behaviours that are being considered in this report.

As a result of Council’s resolution “*That the petition bearing 375 signatures be noted and a report be presented to a future Council meeting*”, the City’s traffic classifiers were installed in Dunkley Avenue in December 2008, to record number of vehicles, speed of vehicles and classes of vehicle.

In order to establish if there were any changes in traffic conditions, the results of the recently collected data can be compared with data collected previously and is as follows:

LOCATION	Traffic Volumes	85TH Percentile Speed	Traffic Count pre 2008	85TH Percentile Speed Pre 2008
Dunkley Ave– 80m south of Cunningham St (outside No 7)	1815vpd	52km/h	1862vpd (2003)	51km/h (2003)
Dunkley Ave– 200m south of Cantray Ave (outside No 35)	1436vpd	60km/h	1347vpd (2007)	62km/h (2007)
Dunkley Ave– 70m north of Canning Highway (outside No 63)	1505vpd	49km/h	1519vpd (2006)	49km/h (2006)

Legend:

Vpd = Vehicles per Day; Km/h = kilometres per hour;

The 85th percentile speed is the speed at which 85% of vehicles are travelling at or below under free flowing conditions.

In Dunkley Avenue, there had been an initial reduction in the 85th percentile speed in keeping with the change to the built up speed limit from 60km/h to 50km/h in December, 2001. However, since that time and with reference to the above table, traffic volumes have remained consistent over the last eight (8) years for a road that is classed as a Local Distributor in the City of Melville Road Hierarchy. A further review of weekend traffic volumes identified that traffic was consistent with weekday traffic volumes.

T09/3065 - PETITION – TRAFFIC CALMING DEVICES IN DUNKLEY AVENUE, APPLECROSS (REC) (ATTACHMENT)

The 85th percentile speed midblock (outside House No 35) has reduced considerably from the year 2000 when this speed was 66km/h (this is not reflected in the above table), however it is this particular mid-block speed that is of most concern to the residents.

In order to discern which direction vehicles travelled in excess of the urban built up speed limit of 50km/h, the traffic data was further analysed, with the results presented in the table below:

LOCATION	Traffic Volumes		85 TH Percentile Speed	
	North bound	South bound	North bound	South bound
Dunkley Ave– 80m south of Cunningham St (outside No 7)	1005vpd	810vpd	53km/h	48km/h
Dunkley Ave– 200m south of Cantray Ave (outside No 35)	947vpd	489vpd	59km/h	61km/h
Dunkley Ave– 70m north of Canning Highway (outside No 63)	987vpd	519vpd	49km/h	48km/h

Reported crash data was also reviewed for the five-year period from 1 January 2003 to 31 December 2007. Six (6) crashes, including the sad fatality of the 10 year old boy, occurred in the five (5) year period. Four (4) of these crashes occurred between 6.00pm and midnight. Two involved parking/unparking a vehicle and a motorcyclist “lost control” at the 90-degree bend in Dunkley Avenue.

Night time crashes are significantly over-represented as are “hit object” crash types, such as, collision with parked car, or impact on verge or traffic island

Officer Comment

Dunkley Avenue has been the subject of a number of traffic investigations since 1999. A concept plan which included a chicane at Cantray Avenue, intersection islands at Fraser Road and Cunningham Street and parking embayments accompanied by nibs was endorsed by Council (Item T99/3031 refers). Following community consultation at that time, the intersection islands were constructed and a speed plateau was installed on Dunkley Avenue west of Cunningham Street. A speed plateau was also installed on Melville Beach Road east of Cunningham Street.

The carriageway width on the northern side of Dunkley Avenue is 4.8m wide and allows for ‘on road’ parking, whilst the southern trafficable lane has been reduced to 2.8m. Generally the preferred lane width would be 3.0m wide on a road such as Dunkley Avenue. However, the confining affect off the narrow lane can provide some traffic calming affect.

T09/3065 - PETITION – TRAFFIC CALMING DEVICES IN DUNKLEY AVENUE, APPLECROSS (REC) (ATTACHMENT)

In determining future projects, the City of Melville uses a priority system, which includes factors such as speed, crash data, road hierarchy and activity generators that are used to determine whether any traffic treatment is warranted. This score establishes the priority of a project compared to other work the City has listed on its safety programme.

The abovementioned factors were assessed and denoted as a 'Minor Technical Problem Site' albeit that the warrant "score" was at the highest end of the scale used, and for which the recommendation is that "a low cost non-capital works solution be considered if appropriate"

PUBLIC CONSULTATION/COMMUNICATION

Residents of Dunkley Avenue have been previously consulted in July 2000 (Item T99/3031 refers), and in August 2002 following a Council resolution in July 2002 which stated "*that the residents of Dunkley Avenue and Melville Beach Road be advised that additional traffic calming on those roads is not warranted, because of the reduced speeds now being experienced on the roads as a result of traffic calming measures*".

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Not Applicable

STATUTORY AND LEGAL IMPLICATIONS

Not Applicable

FINANCIAL IMPLICATIONS

Should traffic calming works be proceeded with funding would need to be considered as part of the Forward Capital Works Programme for 2009/2010 or alternatively the City would investigate the State Government's newly announced "mobile speed cushion" grant programme.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

By accepting the above information, Council is endorsing risk minimisation.

POLICY IMPLICATIONS

Not Applicable

ALTERNATE OPTIONS & THEIR IMPLICATIONS

Not Applicable

**T09/3065 - PETITION – TRAFFIC CALMING DEVICES IN DUNKLEY AVENUE,
APPLECROSS (REC) (ATTACHMENT)****CONCLUSION**

In conclusion, traffic calming will not fully address the up to 15% of motorists who choose to travel in excess of the urban built up speed limit of 50km/h on local roads within the Metropolitan area. The speed humps in Bombard Street in Ardross have not curtailed anti-social behaviour in doing 'burn outs' or 'doughnuts' on the carriageway. Whilst the proliferation of traffic management devices on all local streets is not supported, targeted approach in specific cases can have an impact in the immediate vicinity of the traffic measure.

However, considering that the midblock 85th percentile speed in the mid-section of Dunkley Avenue, is 60km/h and the warrant criteria score, that the existing treatments have only been effective in localised sections of Dunkley Road, and given that new traffic signals are to be installed at the intersection of Canning Highway/Norma Road/Dunkley Avenue, it is recommended Dunkley Avenue, between Cunningham Street and Fraser Road, be considered for a traffic calming treatment.

Given the above, several traffic calming options can be considered all of which have produced speed reduction results in other Local Government authorities:

1. Consider the installation of an Oval Slow Point, Speed Plateau (similar to The Esplanade, Mount Pleasant) or speed cushion (similar to the Coogee Road installations), installed midblock on Dunkley Avenue and paint 'on road' parking bays;
2. Consider the installation of a painted median island accompanied with additional traffic islands and the creation of 'on road' parallel parking embayments (similar to the treatment on The Esplanade);
3. Widen the carriageway to 3.0m for each lane, insert additional islands, solid white barrier line in the centre of the carriageway and provide additional parking embayments similar to those on Canning Beach Road;

Elected members would also be aware of the recent State Government announcement regarding grants for the installation of speed cushions to the value of \$0.5 million per year over a four year period. While the full details of the grants are currently yet to be announced it is expected that applications from local governments would close before Easter 2009.

The programme was launched by the Minister for Police at Duffy Terrace in Woodvale in the City of Joondalup. The operating speeds in Duffy Terrace, Joondalup indicated that 8.7% of the drivers were travelling at least 20km/hr over the default urban speed limit of 50km/hr.

A similar analysis was carried out in Dunkley Ave which indicates 2.5% of all vehicles were travelling in excess of 20km/hr over the speed limit.

Speed cushions such as those installed in Duffy Terrace, Joondalup and Coogee Road, Mount Pleasant, installed mid-block in Dunkley Avenue between Cunningham Street and Fraser Road would prove beneficial in terms of providing a local impact in reducing speeds in the immediate vicinity of the speed cushions. Site plan attached: [3065 Proposed Plan](#)

**T09/3065 - PETITION – TRAFFIC CALMING DEVICES IN DUNKLEY AVENUE,
APPLECROSS (REC) (ATTACHMENT)**

As indicated previously in this report the City does not support the widespread proliferation of traffic management treatments unless the measures can be justified and meet the traffic warrant criteria.

Since the opportunity is now available to apply for a speed cushion grant, it is felt that this would be a good opportunity to propose their installation in Dunkley Avenue.

Should this option be proceeded with, the City would also need to carry out a consultation process with residents in the immediate area prior to any works being carried out.

OFFICER RECOMMENDATION (3065)**APPROVAL**

- 1. That Council note the information regarding traffic volumes and speeds in Dunkley Avenue, Applecross.**
- 2. That Council install two speed cushions in Dunkley Avenue, mid block Dunkley Avenue between Cunningham Street and Fraser Road, Applecross.**
- 3. That the residents in the immediate vicinity of Dunkley Avenue, Applecross be advised regarding the proposed installation of two speed cushions in the street between Cunningham Street and Fraser Road, Applecross as per Plan No. 469A4.**
- 4. That the Council endorse the grant application to Main Roads WA for the installation of two speed cushion locations in Dunkley Avenue between Cunningham Street and Fraser Road, Applecross.**
- 5. That the residents of Dunkley Ave be advised in writing of Council's decision and that the organiser of the petition be requested to advise their fellow petitioners of the Council decision.**
- 6. That the Member for Alfred Cove, Dr Janet Woollard MLA be advised in writing and be requested to formally support the request for Grant Funding from the State Government's recent Anti Hoon Fund and to this end proactively advocate on behalf of the City.**

C09/8011 - \$100,000 SELF SUPPORTING LOAN – KARDINYA BOWLING CLUB (AMREC) (ATTACHMENT)

Ward : University Ward
 Category : Operational
 Subject Index : Kardinya Bowling Club
 Customer Index : Kardinya Bowling Club
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : C04/8020 - December 2004 Self Supporting Loan
 Works Programme : Not applicable
 Funding : \$100,000
 Responsible Officer : Todd Cahoon
 Manager Health and Lifestyle Services

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

KEY ISSUES / SUMMARY

- The purpose of this report is to discuss and recommend the Kardinya Bowling Club's request for an additional self supporting loan of \$100,000 for the installation of a retractable shade cloth covering 2 playing greens. It is proposed that the loan be taken out over a 10 year period.

**C09/8011 - \$100,000 SELF SUPPORTING LOAN – KARDINYA BOWLING CLUB
(AMREC) (ATTACHMENT)****BACKGROUND**

The Kardinya Bowling Club (Inc) (KBC) operates from Morris Buzacott Reserve and has been providing a range of bowling services and activities since 1999. The KBC has enjoyed the support of the local community and has an ongoing commitment to the development of the Morris Buzacott Reserve.

The 2009 Sports Club survey indicates that the KBC current membership stands at 165 of which fewer than 36% are non City of Melville residents.

At a Special General Meeting of the KBC held on 24th February 2009 the following resolution was passed unanimously by 73 full time and honorary members representing just over 44% of the total membership.

“That Kardinya Bowling Club installs a retractable shade cloth cover on both A & B greens at a cost of \$160,000 subject to the following:

- The City of Melville approve a self supporting loan of \$100,000
- The contract from Greensafe has safeguards that protect the Kardinya Bowling Club with suitable guarantees
- The balance of \$60,000 is funded from club revenue”.

DETAIL

The shade cloth cover is made from 90% shade factor, commercial grade knitted shade cloth supported by a series of cables strained between pairs of steel posts. The shade cloth can be drawn backwards and forwards by the stainless steel wires which are driven by seven one and a half hp motors at one end of the green. The canopy is operated by a key switch at an end post and will take approximately two minutes to extend and retract.

The KBC has received a firm offer from Greensafe PTY LTD of \$160,000. The company is a Brisbane based company who are keen to establish a presence in WA and is making this offer to the first club in the State to buy their product. The normal price is in the region of \$210,000. The KBC are keen to take advantage of this opportunity and creating a saving of approximately \$50,000.

The shade cloth will provide the following benefits:

- Shade from the heat and harmful UV rays
- Cools the playing surface up to 15 degrees
- Cooler and safer conditions which will potentially attract new players
- Cooling circulating Breezes
- Electrically operated and extends and retracts in two minutes
- Minimal maintenance
- Individually installed at each location and guaranteed for ten years.

**C09/8011 - \$100,000 SELF SUPPORTING LOAN – KARDINYA BOWLING CLUB
(AMREC) (ATTACHMENT)**

PUBLIC CONSULTATION/COMMUNICATION

Any Planning and Building approvals will be subjected to the normal City of Melville procedures.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Nil

STATUTORY AND LEGAL IMPLICATIONS

Should the Self Supporting Loan (SSL) be approved a period of 30 days public advertising is required under Section 6.20 (2) Local Government Act 1995.

FINANCIAL IMPLICATIONS

In August 1999 a loan (Loan 379) was created for the KBC as a result of discharging Loan 362 and Loan 370.

Loan Number	Original loan amount	Current Outstanding as at 26 February 2009	Annual Repayments	Loan Expire
379	\$395,000	\$265,335	\$37,830	August 2019

An additional loan of \$60,000 was approved for the KBC at the December 2004 round of Council Meetings (C04/8020) to replace both synthetic playing surfaces. This loan was fully paid by the KBC by June 2007.

KBC current loan commitment to the City is \$265,335.

The KBC have demonstrated sound planning and financial management skills and have an excellent repayment record. The KBC relies heavily on volunteers (many from professional backgrounds) and presents as a competent and professionally operated community organisation. In light of their history and current operations their request for a further loan can be considered.

The estimated total cost for the installation of the shade shelter is \$160,000 and it is proposed that it be funded in the following manner

Club funds	\$ 60,000
COM (SSL)	<u>\$100,000</u>
Total	<u>\$160,000</u>

C09/8011 - \$100,000 SELF SUPPORTING LOAN – KARDINYA BOWLING CLUB (AMREC) (ATTACHMENT)

With the addition of \$100,000 the total SSL commitments to the City of Melville will increase from \$265,335 to \$392,240. The new loan will be over a 10 year period expiring in 2019.

Therefore the total loan repayments are as follows:

Loan Number	Original loan amount	Current Outstanding as at 26 February 2009	Annual Repayments	Loan Expire
379	\$395,000	\$265,335	\$37,830	August 2019
New Loan	\$126,905	\$126,905*	\$12,690*	August 2019
TOTAL		\$392,240	\$50,520	

* The interest rate quoted on the new loan is based on rates applying as at 18th February 2009 and may change dependant on the interest rate on the day the new loan is taken out. \$126,905 is the quote for the total cost of the loan including principle and interest payments.

The total annual repayments for the combined loans increase from \$37,830 to approximately \$50,520.

Officers requested the KBC to provide a cash flow forecast that demonstrated the clubs ability to honour the proposed new loan arrangements along with the need to provide for shade cover and playing surface replacement.

The club has a nominated sinking fund account with the Bank of Queensland and the annual deposit into this account increases from \$15,884 in 2008 to \$61,000 in 2011. These financial predictions were prepared by the club Treasurer and audited by a certified practicing Accountant and form: [8011 Attachment](#).

However officers have requested that a cash flow forecast be provided for the duration of the new loan and this is currently being prepared. These requests were made to assist the club in gaining approvals and were based on recommendations from previous self supporting loan agenda items and City of Melville policy requirements.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Risk Statement	Level of Risk*	Risk Mitigation Strategy
A significant financial exposure should the Kardinya Bowling Club not be in a position to honour its financial commitment to the City of Melville	Moderate consequences which are likely, resulting in a High level of risk	Establish an agenda item for the Club's executive meetings reporting back to the City of Melville on monthly and annual basis. Council officers will monitor audited financial statements submitted by the Club on an annual basis. Loan guarantee fee will be applied.

**C09/8011 - \$100,000 SELF SUPPORTING LOAN – KARDINYA BOWLING CLUB
(AMREC) (ATTACHMENT)**

To minimise any risk to the City of Melville the following points should be considered should approval be given to the KBC to extend its loan facilities. It would be prudent for the City to ensure that the club is in a position to replace both the synthetic playing surfaces and its new shade shelter at the end of its natural life expectancy.

This can be achieved in several ways:

- Amendments to the current KBC lease arrangements being made to include the management and maintenance of the new shade shelter and existing playing surfaces as per manufactures instructions
- The KBC noting that the City of Melville **WILL NOT** support any further Self Supporting Loan for any purpose at the KBC until such time that 60% of all loans are repaid.
- That the KBC creates appropriate sinking funds to accommodate shade shelter and existing playing surfaces replacement.
- The KBC agree to an annual meeting with the financial section of the City of Melville to discuss the clubs audited annual reports and overall financial position.
- That the KBC agree that as part of the agenda each of the Club's Executive Committee Meetings it will list and discuss the Club's progress in regards to meeting their loan commitments as well as progress in relation to the setting aside of sinking funds for the replacement of the shade shelter and existing playing surfaces and take any action necessary to ensure compliance with Councils requirements.
- The KBC agree to minute these discussions and forward to the City of Melville on a monthly basis.

POLICY IMPLICATIONS

Policy 13-PL-004 Self Supporting Loan, states that *“Approval will only be considered where the club or organisation can adequately demonstrate, by provision of forward financial plans covering the life of the loan, a capacity to meet the loan repayment. The financial plans are to be certified by an independent Certified Practising, Chartered or similarly qualified and experienced Accountant”*.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Historically the City of Melville has relied on the good management of local sporting and community groups when approving SSL. In most cases these loans are well managed and the KBC has demonstrated that they have an excellent repayment history.

The costs involved in shade shelter and playing surface replacement are significant and will continue to increase over the duration of this loan period and the product's life expectancy. An alternative to the KBC managing its own shade shelter and playing surface replacement fund is for the City of Melville to set up a trust fund to which the KBC would contribute to on an agreed basis. The level of contribution would represent playing surface lifespan. The City of Melville would then be in a position to plan and replace the playing surfaces when needed.

**C09/8011 - \$100,000 SELF SUPPORTING LOAN – KARDINYA BOWLING CLUB
(AMREC) (ATTACHMENT)**

CONCLUSION

The KBC are keen not to miss this particular opportunity to provide shade cover to their bowling greens and to take advantage of what is a significant financial saving. Additionally the added playing comfort will benefit the clubs members and provide a facility that provides sun safe initiatives.

OFFICER RECOMMENDATION (8011)

ABSOLUTE MAJORITY

1. **That by Absolute Majority Decision the Kardinya Bowling Club be granted approval for an additional Self Supporting Loan of \$100,000 repayable over ten years subject to:**
 - A) **The Kardinya Bowling Club providing an acceptable cash flow analysis for the term of the new loan reviewed and supported by an independent certified practicing, chartered or similarly qualified and experienced accountant to the satisfaction of the Manager Financial Services.**
 - B) **The Kardinya Bowling Club noting that the City of Melville will not approve any further Self Supporting Loans for any purpose until such time that 60% of all loans are repaid.**
 - C) **The Kardinya Bowling Club agrees to:**
 - i) **Amendments to the Management Licence by adding in at clause 7.2 (a) the following words after the word 'monies': 'including the amount of any Self Supporting Loan' and to update the maintenance schedules to include the maintenance of the new shade shelter to the manufacturer's specifications.**
 - ii) **Create appropriate sinking funds to accommodate shade shelter and existing playing surfaces replacement.**
 - iii) **An annual meeting with the Financial Section of the City of Melville to discuss the club's audited annual reports and overall financial position.**
 - iv) **As part of the agenda each of the Club's Executive Committee Meetings list and discuss the Club's progress in regards to meeting their loan commitments as well as progress in relation to the setting aside of sinking funds for the replacement of the shade shelter and existing playing surfaces and take any action necessary to ensure compliance with Councils requirements.**
 - v) **To minute the discussions of the Executive Committee Meetings and forward a copy to the City of Melville.**
 - vi) **Meeting the requirements of Councils Self Supporting Loan Policy 13-PL-004**
 - vii) **The Club entering into a loan agreement.**

C09/5054 – REVIEW OF LOCAL LAWS (REC) (ATTACHMENT)**KEY ISSUES / SUMMARY**

Report recommends that Council initiates a review of the Local Laws at the City of Melville in accordance with and as required under s. 3.16 of the *Local Government Act 1995*.

BACKGROUND

It is a requirement under s. 3.16(1) of the *Local Government Act 1995*, that a local authority must, within an 8 year period from that day when a local law commenced or a report of a review of the local law was accepted under this section, carry out a review of the local law to determine whether or not it considers that it should remain unchanged, be repealed or amended. A review was commenced of some of the City's local laws in February 2004. A comprehensive review of all the City's local laws however, has not been undertaken.

DETAIL

The City of Melville last reviewed local laws in June 2004. It is appropriate to again review all local laws to take account of changes to State legislation and consider whether the provisions of each local law will provide for good governance of the City for a maximum of eight years.

The *Local Government Act 1995* sets out the process for undertaking a review of a City's local laws.

The local government is to give Statewide public notice stating that —

- (a) the local government proposes to review the local laws;
- (b) a copy of the local laws may be inspected or obtained at any place specified in the notice; and
- (c) submissions about the local laws may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.

The notice referred to above is also to be published and exhibited as if it were a local public notice.

After the last day for submissions, the City is to consider any submissions made and cause a report of the review to be prepared and submitted to Council.

On consideration of the report, Council may determine by absolute majority whether or not it considers that any of the local laws should be repealed or amended.

C09/5054 – REVIEW OF LOCAL LAWS (REC) (ATTACHMENT)

The City of Melville currently has seventeen (17) local laws. Each local law will be looked at in terms of –

- their relevance;
- uniformity of language and style;
- consistency and compatibility with other local laws of the City;
- whether they are repetitive of provisions in the same or other local laws;
- compliance with the National Competition Policy; and
- their clarity as local laws need to be written in plain English, be able to stand alone and be unambiguous.

Number	Title
1.	Local Law Relating to the Keeping of Bees <u>5054(1)</u>
2.	Local Law Relating to the Control and Management of Community Halls and Recreation Centres <u>5054(2)</u>
3.	Local Law Relating to Dogs <u>5054(3)</u>
4.	Local Laws Relating to Eating Houses <u>5054(4)</u>
5.	Local Law Relating to Fences <u>5054(5)</u>
6.	Local Law Relating to Firebreaks <u>5054(6)</u>
7.	Local Law Relating to Hawkers, Stall Holders, and Street Traders <u>5054(7)</u>
8.	The City of Melville Health Local Laws <u>5054(8)</u>
9.	Local Law Relating to Parking Facilities <u>5054(9)</u>
10.	Local Law Relating to Parks Recreation Grounds and Public Reserves <u>5054(10)</u>
11.	Local Law Relating to Point Walter Golf Course <u>5054(11)</u>
12.	Local Law Relating to Outdoor Eating Areas <u>5054(12)</u>
13.	Local Law Relating to Signs, Hoardings and Bill Postings <u>5054(13)</u>

C09/5054 – REVIEW OF LOCAL LAWS (REC) (ATTACHMENT)

14.	Standing Orders Local Law 5054(14)
15.	Local Law Relating to Street Lawns and Gardens 5054(15)
16.	Local Law Relating to Street Numbering 5054(16)
17.	Local Law Relating to The Use of Public Jetties 5054(17)

There may be other local laws that need to be created and these should be considered when reviewing each local law.

The current local laws are available on the City's website or as attached.

PUBLIC CONSULTATION/COMMUNICATION

The City is required to advertise the review in accordance with s. 3.16 of the *Local Government Act 1995*.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Not applicable.

STATUTORY AND LEGAL IMPLICATIONS

The *Local Government Act 1995* s. 3.16 requires that within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under that section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.

FINANCIAL IMPLICATIONS

The cost implications include advertisement costs, staff time spent reviewing the local laws and where local laws require amendment, the costs of notices in the government gazette.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

The requirement for periodic reviews of local laws is linked to the orderly conduct and management of the organisation and to ensure the applicability and relevance of local laws within the City.

C09/5054 – REVIEW OF LOCAL LAWS (REC) (ATTACHMENT)**POLICY IMPLICATIONS**

Not applicable.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Council may decide to postpone a review until the statutory review period occurs by June 2012 however there is a need to conduct a review at this time to ensure all local laws are relevant, consistent, uniform in their language and style, are written in a clear manner and appropriately gazetted.

CONCLUSION

The review has been brought forward to ensure all local laws are consistent with current legislation and excellent practice in local government.

OFFICER RECOMMENDATION (5054)**APPROVAL**

That Council initiate a review of the following City of Melville Local Laws by advertising for a period of six (6) weeks inviting public comments:

- 1. Local Law Relating to Fencing;**
- 2. Local Law Relating to the Control and Management of Community Halls and Recreation Centres;**
- 3. Standing Orders Local Law;**
- 4. Local Law Relating to Dogs;**
- 5. Local Law Relating to Parking Facilities;**
- 6. Local Law Relating to Point Walter Golf Course;**
- 7. Local Law Relating to the Use of Public Jetties;**
- 8. Local Law Relating to Signs, Hoardings and Bill Postings;**
- 9. Local Law Relating to Street Lawns and Gardens;**
- 10. Local Law Relating to Outdoor Eating Areas;**
- 11. Local Laws Relating to Eating Houses;**
- 12. The City of Melville Health Local Laws;**
- 13. Local Law Relating to Firebreaks;**
- 14. Local Law Relating to Hawkers, Stall Holders, and Street Traders;**
- 15. Local Law Relating to Parks Recreation Grounds and Public Reserves;**
- 16. Local Law Relating to Street Numbering; and**
- 17. Local Law Relating to the Keeping of Bees.**

C09/5056 – ADOPTION OF MAJOR LAND TRANSACTION BUSINESS PLAN AND DISPOSAL OF PROPERTY BY WAY OF LEASE OR SALE – LOT 100 (109) NORTH LAKE ROAD AND LOT 9 (241) LEACH HIGHWAY, WILLAGEE (AMREC)

Ward : All
 Category : Strategic
 Subject Index : Strategic Planning
 Customer Index : City of Melville
 Disclosure of any Interest : Nil
 Previous Items : Nil
 Works Programme : Not Applicable
 Funding : Nil
 Responsible Officer : Marten Tieleman
 Director Corporate Services

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

C09/5056 – ADOPTION OF MAJOR LAND TRANSACTION BUSINESS PLAN AND DISPOSAL OF PROPERTY BY WAY OF LEASE OR SALE – LOT 100 (109) NORTH LAKE ROAD AND LOT 9 (241) LEACH HIGHWAY, WILLAGEE (AMREC)**KEY ISSUES / SUMMARY**

- This report considers the public submissions providing comment on the Major Land Transaction Business Plan, for the lease, the lease with an option to purchase or for the outright sale of whole of Lot 100 (109) North Lake Road and Lot 9 (241) Leach Highway, Willagee.
- The Business Plan was advertised in the West Australian Newspaper on Wednesday, 21 January 2009, the Melville Times Advertorial on Tuesday, 27 January 2009 and on Tuesday, 17 February 2009, with the public comment period concluding on Friday 6 March 2009.
- No submissions were received and Council consideration and adoption of the Business Plan, Major Land Transaction is required.
- Consideration is given in this report to request Council's consent to now advertise by way of public tender for interested parties to either lease, lease with an option to purchase the site at some time in the future or for the outright sale of the property.

BACKGROUND

In 2006 the Council advertised seeking Expressions of Interest for the long term ground lease of the vacant site at the corner of Leach Highway and North Lake Road. The City owns the site in freehold title and was interested in ascertaining the level of interest from suitably qualified and experienced developers seeking innovative development concepts where residential and/or non-residential uses were incorporated, within the confines of a long term ground lease proposal.

Two expressions of interest were received, with one being considered unsuitable and the second eventually withdrawing as they found an alternative site for their office development.

The City of Melville has used the ground lease concept with noted success at the former depot site on the corner of Leach Highway and Norma Road however there was a low level of interest in leasing this site. The reasons for this may be attributed to -

- Ground lease option is limited by the return that a developer can achieve by the permitted land uses of Residential and Office;
- Ground lease is generally successful where there is exceptionally high demand for the land;
- Site was not professionally marketed;
- Developers do not have an appreciating land asset to offset depreciating building or development expenses;
- Generally developers will mortgage land to fund cost of development, which is not available under a ground lease arrangement.

At the November, 2008 and the December, 2008 Ordinary Meetings of Council it was resolved to advertise Business Plans to dispose of part of Lot 300 (10) Archibald Street, Willagee (Former Carawatha School Site) and part Lots 15, 180 and 181 fronting Canning Beach and Kintail Roads, Applecross, respectively.

C09/5056 – ADOPTION OF MAJOR LAND TRANSACTION BUSINESS PLAN AND DISPOSAL OF PROPERTY BY WAY OF LEASE OR SALE – LOT 100 (109) NORTH LAKE ROAD AND LOT 9 (241) LEACH HIGHWAY, WILLAGEE (AMREC)

The Major Land Transaction Business Plan for the disposal of this site, by way of lease or sale was advertised along with the Business Plans for the Archibald Street/North Lake Road and Canning Beach Road/Kintail Road sites.

The Business Plans were advertised in the West Australian Newspaper on Wednesday 21 January 2009 and in the Melville Times Advertorial on Tuesday, 27 January 2009 and on Tuesday, 17 February 2009, with the last day for public submissions being Friday 6 March 2009.

The Business Plan was advertised promoting the “disposal” of the site by way of either lease, lease with the lessee to exercise an option to purchase the site at some time in the future, or for the outright sale of the property.

No public submissions or comments were received in relation to the advertised Business Plan for this site.

DETAIL

The City of Melville owns the land in freehold title and is legally described as being of Lot 9 (Vol. 1243 Fol. 663) 241 Leach Highway, Willagee and Lot 100 (Vol. 1926 Fol. 967) 109 North Lake Road, Willagee.

Lot 100 (109) North Lake Road corners Leach Highway and Moorhouse Street, Willagee, is a vacant site and has an area of 4,131.9m². Adjacent Lot 9 (241) Leach Highway contains a dwelling and has an area of 757.2m². The two properties are in the process of being amalgamated and will have a combined area of 4889.1m².

The dwelling on Lot 9 (241) is a modest older brick and tile residence that is currently rented and occupied. The term of tenancy is periodic requiring 60 days notice period to vacate the dwelling.

Lot 100 (109) has a frontage to North Lake Road to the east, Leach Highway to the north and Moorhouse Street, Willagee to the south. On the western boundary the subject land abuts two developed residential properties (No 241 Leach Highway and No 29 Moorhouse Street, Willagee). Lot 9 (241) fronts Leach Highway and is surrounded by residential dwellings on its western and southern boundaries.

Development surrounding the two lots includes residential to the south and west and local open space to the east of North Lake Road. Development to the north of Leach Highway forms part of the Myaree Mixed Business zone and includes a Bunnings warehouse, car park and Toyota car sales.

C09/5056 – ADOPTION OF MAJOR LAND TRANSACTION BUSINESS PLAN AND DISPOSAL OF PROPERTY BY WAY OF LEASE OR SALE – LOT 100 (109) NORTH LAKE ROAD AND LOT 9 (241) LEACH HIGHWAY, WILLAGEE (AMREC)

The site plan of the property is below.



Section 3.59 of the Local Government Act 1995 and the Local Government (Functions and General) Regulations 1996 require a Local Government to give state-wide public notice of any major land transaction that is under consideration with the criteria being that the value of the transaction is more, or worth more, than either \$1,000,000 or 10% of the operating expenditure incurred by the Local Government from its municipal fund in the last completed financial year. As it is expected that the disposal of this property, either by lease or outright sale will be valued in excess of \$1,000,000 it is considered to be a Major Land Transaction.

The Local Government Act requires the Council to consider any submissions and decide by absolute majority decision whether to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed. If the Council wishes to commence an undertaking or transaction that is significantly different from what was advertised it can only do so after readvertising the new undertaking or transaction for a further 6 week submission period.

The location of the two properties adjacent to the Myaree Mixed business area are suited to support a combination of land uses appropriately designed to suit the unique corner location, compliment the Myaree Mixed Business precinct and be sympathetic to the surrounding residential area (that is, commercial land use frontage Leach Highway and North Lake Road with Residential at the rear of the land adjacent to existing residential areas or atop commercial development). Furthermore, a well designed development at this landmark location will present a suitable entry statement to the suburb of Willagee and improve the identity of this strategic location within the City of Melville.

C09/5056 – ADOPTION OF MAJOR LAND TRANSACTION BUSINESS PLAN AND DISPOSAL OF PROPERTY BY WAY OF LEASE OR SALE – LOT 100 (109) NORTH LAKE ROAD AND LOT 9 (241) LEACH HIGHWAY, WILLAGEE (AMREC)

Lot 100 (109) does not currently have any access points, as the land is vacant. Lot 9 (241) has access directly to Leach Highway however, the amalgamated lots will have access via North Lake Road and Moorhouse Street. Development of the site will be subject to submission of a traffic study which is to address access details for the development and take into consideration impacts of the development relative to the adjacent residential streets and opportunities to achieve improved access to the site directly off Leach Highway and North Lake Road.

All access proposals to Leach Highway and North Lake Road will, where relevant, be subject to negotiation with and approval of Main Roads WA.

Lot 100 (109) and Lot 9 (241) are zoned “Urban” under the Metropolitan Regional Scheme (MRS) and both properties abut land reserved for Primary Regional Road (Leach Highway). North Lake Road is reserved for Other Regional Road in the MRS. (NB: the Primary Regional Road reservation extends the full length of Lot 100 on its northern and eastern boundaries).

Under City of Melville Community Planning Scheme No. 5, Lot 100 and Lot 9 are currently zoned Residential R20 and are within the W1 – Willagee Precinct.

The Statement of Intent for the Willagee (W1) precinct reads as follows:

Primarily residential but may include home occupations, corner shops, parks, religious, recreational and educational, provided they are designed in a residential style and are not developed to such an intensity that they disturb the Precinct. All non-residential uses shall be advertised in accordance with Clause 7.5 provided that home occupations shall be determined in accordance with Clause 5.6.

Community Planning Scheme No.5 permits the following land uses within the precinct:

Land Uses	Symbol
Child minding centre	S
Conservation/Recreation	P
Consulting Rooms	S
Corner Stores	S
Educational Establishment	S
Public Worship	S
Residential	P
*Offices	P
*Medical Centre	P
* Restaurant	P

P – Permitted use

S – Use not permitted unless the Council exercises discretion and grants planning approval after advertising in accordance with Clause 7.5(d) and the exercise of that discretion in the case of an “Other use not listed above” in a Living Area Precinct shall require a Special Majority of Council.

C09/5056 – ADOPTION OF MAJOR LAND TRANSACTION BUSINESS PLAN AND DISPOSAL OF PROPERTY BY WAY OF LEASE OR SALE – LOT 100 (109) NORTH LAKE ROAD AND LOT 9 (241) LEACH HIGHWAY, WILLAGEE (AMREC)

- * **The Council granted Final Approval to the proposed Scheme Amendment Number 41, to amend the density coding for Lot 100 (109) North Lake Road and Lot 9 (241) Leach Highway from “R20” to “R60” and permitting the additional uses of Medical Centre, Offices and Restaurant at its Ordinary Meeting of Council held on 21 October 2008.**

The land subject to this business plan is strategically located at the junction of two regional roads with high traffic exposure and is positioned opposite a thriving and vibrant commercial area (Myaree Mixed Business precinct). The location of the site is significant, is well suited to the strategic location of office, restaurant and/or medium density residential use with the opportunity for other minor commercial uses at the discretion of Council.

Any proposed development will need to meet the planning scheme requirements in relation to car parking standards for the use proposed as well as comply with the requirements of the Community Planning Scheme in relation to setbacks, overlooking, shadowing, height limits etc.

PUBLIC CONSULTATION/COMMUNICATION

The advertising of the Major Land Transaction Business Plan in the West Australian Newspaper and the Public consultation has been undertaken.

The public consultation process in regards to the built form, land use and zoning densities for the site has also been undertaken when public comment was sought in relation to Amendment Number 41 to the Community Planning Scheme Number 5, which related to this site.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

The Water Corporation and Western Power have been consulted in relation to issues regarding the amalgamation of these two lots.

STATUTORY AND LEGAL IMPLICATIONS

Disposal of land either by way of lease or outright sale is dealt with by sections 3.58 and 3.59 of the Local Government Act 1995 and the Local Government (Functions & General) Regulations 1996.

3.58. *Disposing of property*

- (1) In this section —

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

property includes the whole or any part of the interest of a local government in property, but does not include money.

C09/5056 – ADOPTION OF MAJOR LAND TRANSACTION BUSINESS PLAN AND DISPOSAL OF PROPERTY BY WAY OF LEASE OR SALE – LOT 100 (109) NORTH LAKE ROAD AND LOT 9 (241) LEACH HIGHWAY, WILLAGEE (AMREC)

- (2) Except as stated in this section, a local government can only dispose of property to —
 - (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned;
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;and
 - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
 - (a) the names of all other parties concerned;
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.
- (5) This section does not apply to —
 - (a) a disposition of land under section 29 or 29B of the *Public Works Act 1902*;
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

3.59. Commercial enterprises by local governments

- (4) The local government is to —
 - (a) give State-wide public notice stating that —

C09/5056 – ADOPTION OF MAJOR LAND TRANSACTION BUSINESS PLAN AND DISPOSAL OF PROPERTY BY WAY OF LEASE OR SALE – LOT 100 (109) NORTH LAKE ROAD AND LOT 9 (241) LEACH HIGHWAY, WILLAGEE (AMREC)

- (i) the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction;
 - (ii) a copy of the business plan may be inspected or obtained at any place specified in the notice; and
 - (iii) submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
- and
- (b) make a copy of the business plan available for public inspection in accordance with the notice.
- (5) After the last day for submissions, the local government is to consider any submissions made and may decide* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed.
- * Absolute majority required.*
- (5a) A notice under subsection (4) is also to be published and exhibited as if it were a local public notice.
- (6) If the local government wishes to commence an undertaking or transaction that is significantly different from what was proposed it can only do so after it has complied with this section in respect of its new proposal.

FINANCIAL IMPLICATIONS

The property was valued at \$3,900,000 in November 2006. The disposal mechanism agreed by the Council will determine the actual financial return. An amalgamation will occur whereby approximately 4,889 square metres of land is provided for lease and/or lease with a future purchase option, or for outright sale.

The land is a significant asset and the City could either retain a portion of the capital asset with the objective of realising a long term financial gain or realise the asset in order to generate funds for investment in other commercial land or building projects. Either option would improve the variety of business opportunities within the City and Region. In its present form the site provides a minimal rate of return (residential rental income from 241 Leach Highway) to the City when compared to the potential return in could provide if developed.

There is an option for the rental return from a ground lease or capital income from the sale of the site to be deposited into a “Commercial Property Reserve” (Currently known as The Land & Property Reserve). The purpose of this reserve would be to reinvest in the purchase of further commercial assets that will generate further income. This will enhance the City’s ability to fund future services and facilities.

C09/5056 – ADOPTION OF MAJOR LAND TRANSACTION BUSINESS PLAN AND DISPOSAL OF PROPERTY BY WAY OF LEASE OR SALE – LOT 100 (109) NORTH LAKE ROAD AND LOT 9 (241) LEACH HIGHWAY, WILLAGEE (AMREC)

Costs incurred would include fees associated with external advisors and amalgamation, subdivision costs as well as an independent valuation of the land.

Revenues generated from the lease or sale of the land will be used to meet Council's strategic objective of reducing the reliance on rates by building a future fund contributed to by non-rate revenues and in particular income generated from Council's substantial holdings of freehold land which currently generate either negative or minimal returns on their capital value.

For the purposes of this business plan, the definition of "disposal" under the provision section 3.58 of the Local Government Act 1995 includes to sell, lease, or otherwise dispose of, whether absolutely or not. Another option that may be considered, is an exchange of properties, however this is not envisaged in this case.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

The Council's Vision for the City of Melville is:

"Taking into account the social, cultural, economic and environmental areas that the community sees as important to a high level of the quality of life in the City of Melville, our vision is to :

- Create a safe, attractive City where the consequences of our actions for future generations are taken into account.
- Ensure that natural and built facilities are, where practicable, accessible to everyone.
- Generate a sense of place, belonging and community spirit.
- Ensure that all voices are heard through the creation of opportunities to participate in decisions that affect lives of our community."

The City aims to have a variety of business opportunities within the City and region and has an Economic Vision to provide "A strong, vibrant and diversified local economy with a range of business and employment opportunities".

The disposal of this property did not specifically form part of the current Principal Activity Plan (The City of Melville's Plan for the Future 2008 to 2012). However, with the stated goals to :

- Enhance and maintain a business – friendly environment
- Have vibrant and diverse commercial centres that meet local and regional needs,

properties owned and operated by the City of Melville are always under review. It is not anticipated that there will be any impact on the Principal Activity Plan and the disposal and development of this site will compliment the above strategies.

The site and project are considered to be of high financial and strategic value. At this point in time the project is considered to be low risk. The future level of risk will depend on the nature of the submissions received in the tender process and whether or not the City chooses to sell the site outright, develop it in its own right or under a joint venture arrangement or lease the site.

C09/5056 – ADOPTION OF MAJOR LAND TRANSACTION BUSINESS PLAN AND DISPOSAL OF PROPERTY BY WAY OF LEASE OR SALE – LOT 100 (109) NORTH LAKE ROAD AND LOT 9 (241) LEACH HIGHWAY, WILLAGEE (AMREC)**POLICY IMPLICATIONS**

The land is surplus to the City of Melville's requirements, and could be disposed of in accordance with Policy 04-PL-002 Property Retention and Disposal of Property. Category 5 of the policy states that:

“Land holdings not required for community or infrastructure use, which may be disposed of by:

- medium or long term commercial lease of land and/or buildings
- Development or Joint Venture arrangements
- Other disposal opportunities that may exist at the time, including sale with proceeds going to the Land and Property Reserve”.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

There are several alternative options that the Council may consider. Council could continue to hold the land as land bank – this will result in minimal financial returns being achieved from this valuable land and will not result in the improvement of the visual amenity of the land.

The City of Melville could carry out a development of the land in it's own right or under a joint venture arrangement – the City has no previous experience in this regard and such action would require the engagement of a high level of external expertise and would require the City to take on the full development risks associated with this action.

There are alternatives available to the Council in relation to the marketing of the site and the method of disposal. The City could place the site in the hands of a Commercial Real Estate Agent who has a significant market profile.

The City could dispose of the site by way of public auction or be placed on the open market and be sold by private treaty without going through the tender process. Commission would be 1% to 2%, and marketing costs \$10,000 to \$20,000 which would be recouped from the sale.

CONCLUSION

The site has very significant strategic, visual and land values, is currently under-utilised and provides a poor return on capital invested, to the City.

It is therefore essential that any lease or sale of the whole or part of the site and any subsequent developments on the site are conducted in such a manner so as to maximise the economic, social/cultural and environmental outcomes for the City of Melville.

C09/5056 – ADOPTION OF MAJOR LAND TRANSACTION BUSINESS PLAN AND DISPOSAL OF PROPERTY BY WAY OF LEASE OR SALE – LOT 100 (109) NORTH LAKE ROAD AND LOT 9 (241) LEACH HIGHWAY, WILLAGEE (AMREC)

OFFICER RECOMMENDATION (5056)

ABSOLUTE MAJORITY DECISION

1. That by Absolute Majority Decision Council, in accordance with Section 3.59 (5) of the Local Government Act 1995, proceed with the major land transaction, as advertised in the Business Plan to dispose of lot 100 (109) North Lake Road and Lot 9 (241) Leach Highway, Willagee by way of lease, lease with the option of a future purchase or by outright sale.
2. That the Council, in accordance with Section 3.58 (2) (b) of the Local Government Act 1995, dispose of Lot 100 (109) North Lake Road and Lot 9 (241) Leach Highway, Willagee by calling for public tenders for the lease, lease with the option of a future purchase or by outright sale.
3. That should the property be disposed of by way of lease or sale the all revenue, after deduction of lease or sale costs, be deposited in to the Land and Property Reserve to develop or acquire further commercial properties.

C09/5057 – DEEP WATER POINT CAFÉ/KIOSK – TENANCY AND REQUEST FOR TENDER (REC)

Ward : Applecross/Mt Pleasant
 Category : Operational
 Subject Index : Leases, Licences, Agreements, Contracts
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Deed of Assignment – Deep Water Point Café Ordinary Meeting of Council held 16 August 2005
 Works Programme : Not Applicable
 Funding : Not Applicable
 Responsible Officer : Marten Tieleman
 Director Corporate Services

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

C09/5057 – DEEP WATER POINT CAFÉ/KIOSK – TENANCY AND REQUEST FOR TENDER (REC)**KEY ISSUES / SUMMARY**

- The Deep Water Point Café/Kiosk lease will terminate on 30 April 2009;
- The recommended option is to offer a month by month tenancy to the current tenant and that a request for tender be undertaken during this period.

BACKGROUND

The current lease of the Deep Water Point Café/Kiosk commenced on 1 May 1999 and since that time the lease has been purchased/assigned to other parties on three occasions. The original Lessee improved the building and was granted an extension of five years which is now coming to an end. The current Lessee has been the sole Lessee from 12 January 2007 after dissolving a partnership that held the lease since 21 September 2005.

DETAIL

The current lease will conclude on 30 April 2009. There is provision in the lease for the Lessee to continue as a monthly tenant (Clause 17.9) with the consent of the Lessor (City of Melville). It is recommended that this provision be exercised by the Council to enable sufficient time for the Tender process to be conducted. On 1 July 2009 in accordance with the current lease the rental will be increased by the CPI Perth All Groups Index being 3.7%. The Lessee has verbally indicated that he would put forward a tender and has expressed interest in remaining as a month by month periodic tenant.

Council has previously indicated that a major redevelopment of the Café/Kiosk would be required in the future to provide a facility for the community that would be a significant improvement on the existing aging building. This process will require a significant planning and development phase. Due to the current economic conditions it is unlikely that a Lessee funded redevelopment would be forthcoming. Consequently a three to four year timeframe to plan for a redevelopment and await more buoyant economic conditions, is considered appropriate. Any Council funded redevelopment proposal would need to be considered against other budget priorities.

Any successful tenderer for the lease of the Café/Kiosk may wish to undertake a refurbishment of the premises. It would be beneficial if any such refurbishment occurred within the quieter Winter season and the new Lessee be in place and have some experience with the facility prior to commencement of the busy Summer period.

Due to the Lessee's experience with the facility Officers consider the most appropriate action is to offer the current Lessee a month by month tenancy and to initiate a request for tender immediately, offering a term of three years with three by one year extensions at the Lessor's consent.

C09/5057 – DEEP WATER POINT CAFÉ/KIOSK – TENANCY AND REQUEST FOR TENDER (REC)

PUBLIC CONSULTATION/COMMUNICATION

Not applicable.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Not applicable.

STATUTORY AND LEGAL IMPLICATIONS

The Local Government Act 1995 s. 3.58 and Local Government (Functions and General) Regulations 1996 c.30 provides the requirements for disposing of property. “Disposing” includes leasing of properties. The original tender and consequent lease provisions fulfil the obligations of the City concerning disposal. The original lease provisions allow the existing Lessee to continue to operate the facility as a monthly tenant.

FINANCIAL IMPLICATIONS

The cost for tender advertising and lease preparation is included in the operational budget.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

The provision of an ongoing community facility of a Café/Kiosk at Deep Water Point is consistent with assessed community expectations. The recommendation of undertaking a tender process will generate interest from a number of parties and in the event the tender is won by another person/company than the current lessee, there may be a short period of time when the Café/Kiosk would be closed or only offer limited service due to internal refurbishment of the building.

Risk Statement	Level of Risk*	Risk Mitigation Strategy
Risk of Café/Kiosk Operator not meeting the needs of the consumer or operating the facility in a manner which creates a negative public image of the City.	Minor consequences resulting in a LOW level of risk	All comments and complaints are addressed with the Lessee for rectification.
Risk of Café/Kiosk Operator not trading profitably.	Minor consequences resulting in a LOW level of risk	The Lessee approved will have extensive relevant experience in operating similar facilities.
Risk of Council not achieving an appropriate return on it's investment in the facility.	Minor consequences resulting in a LOW level of risk	Market Rent Reviews are conducted to ensure the return is appropriate for this type of facility
Risk of facility impacting negatively on the adjoining residents.	Minor consequences resulting in a LOW level of risk	The Lessee does not have loud music or other operational noise.

C09/5057 – DEEP WATER POINT CAFÉ/KIOSK – TENANCY AND REQUEST FOR TENDER (REC)

Risk of short term closure for tender and minor refurbishment.	Moderate consequences which are almost certain, resulting in a Medium level of risk	Planned refurbishment to minimize any potential closure and provision for limited services during the refurbishment period.
Risk of long term closure if the facility is redeveloped.	Minor consequences resulting in a LOW level of risk	The future location of a redeveloped building would be in a different location to the existing facility. The existing facility would continue to trade whilst construction occurred.

* As derived from using the Risk Assessment Matrix

POLICY IMPLICATIONS

Not applicable.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

An alternative option to the continuation of a month by month periodic tenancy would be to let the current lease conclude on 30 April 2009. The tender process will not be completed by the end of the current lease and if this option was chosen the facility would cease be available until an alternative Lessee was awarded a new lease. The community expectation of an ongoing service provision would not be met by this option.

CONCLUSION

The provision of an ongoing community facility to ensure that community needs are met over the forthcoming months whilst a tender is undertaken will be secured by providing a month to month periodic tenancy to the current Lessee.

OFFICER RECOMMENDATION (5057)

APPROVAL

- 1. That the current Deep Water Point Lease be extended by offering it to the current Lessee on a monthly by month periodic tenancy arrangement pending the determination of the tender process.**
- 2. That a request for tender be advertised offering a three year lease with three, one year extensions, to be exercised at the City of Melville's discretion.**

C09/5000 – COMMON SEAL REGISTER (REC)

Ward	:	All
Category	:	Operational
Subject Index	:	Common Seal Register
Customer Index	:	City of Melville
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Standard Item
Works Programme	:	Not applicable
Funding	:	Not applicable
Responsible Officer	:	Bruce Taylor Manager Information, Technology & Support

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
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<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
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KEY ISSUES / SUMMARY

This report details the documents to which the City of Melville Common Seal has been applied and recommends that the information be noted.

C09/5000 – COMMON SEAL REGISTER (REC)

BACKGROUND

Section 2.5 of the Local Government Act 1995 states that a Local Government is a Body Corporate with perpetual succession and a common seal. A document is validly executed by a Body Corporate when the common seal of the Local Government is affixed to it by the Chief Executive Officer, and the Mayor and the Chief Executive Officer attest the affixing of the seal.

DETAIL

Register Reference*	Party	Description	File Reference
258	City of Melville & Hollioake Group	Development Deed 23 Queens Road Mount Pleasant	2014961
261	City of Melville, Allwester Pty Ltd & Julie Sharon Jeffrey	Deed of Assignment of Lease - Allwester Pty Ltd & Julie Sharon Jeffrey - Refresh Cafe	1937912
262	City of Melville & MORE Community	Renewal of Management Licence - MORE Community Group Inc.	2045233
263	City of Melville & Kardinya Sports Association	Renewal of Management Licence - Kardinya Sports Association	2045133
264	City of Melville & Canning Bridge Senior Citizens Association	Renewal of Management Licence - Canning Bridge Senior Citizens Club Inc.	2039977

* Documents relating to register numbers not appearing on the above table did not need to be signed under Common Seal.

PUBLIC CONSULTATION/COMMUNICATION

Not applicable.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Not applicable.

C09/5000 – COMMON SEAL REGISTER (REC)

STATUTORY AND LEGAL IMPLICATIONS

Section 2.5 of the Local Government Act 1995.

(2) The local government is a body corporate with perpetual succession and a common seal.

9.49. Documents, how authenticated

A document, is, unless this Act requires otherwise, sufficiently authenticated by a local government without its common seal if signed by the CEO or an employee of the local government who purports to be authorised by the CEO to so sign.

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

Not applicable.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable.

CONCLUSION

This is a standard report for Elected Members information.

OFFICER RECOMMENDATION (5000)

NOTED

That the action of His Worship the Mayor and the Chief Executive Officer in executing the documents listed under the Common Seal of the City of Melville, be noted.

C09/6000 - INVESTMENT STATEMENTS (REC) (ATTACHMENT)

Ward : All
 Category : Operational
 Subject Index : Financial Investments and Statements
 Customer Index : Not applicable
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Standard Item
 Works Programme : Not applicable
 Funding : Not applicable
 Responsible Officer : Dudley Smith
 Manager Financial Services

AUTHORITY / DISCRETION

DEFINITION

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KEY ISSUES / SUMMARY

- This report presents the investment statements for the month of February 2009 and recommends that the information detailed in the attachments be noted.
- The report highlights continuing significant reductions in the estimated market value of many of Councils' investments and discusses the actions being taken by Council Officers to ameliorate, in so far as possible, the risk of further losses in value.

C09/6000 - INVESTMENT STATEMENTS (REC) (ATTACHMENT)**BACKGROUND**

The investment of cash holdings is undertaken in accordance with Council's investment policy, with the objective of maximising returns whilst maintaining low levels of credit risk exposure.

DETAIL

The investment of funds is undertaken in accordance with the City of Melville's Investment of Funds Policy 13-PL-003.

[6000A February 2009](#) and [6000B February 2009](#) contain specific details (including **estimated** market and officer valuations) of the investments held at 28 February 2009. Agenda attachment [6000C February 2009](#) is a graph showing the total of funds invested and their estimated market valuations at the end of each month over the past financial year.

Elected Members are well aware of the continuing uncertainty and extreme volatility in world financial markets and the negative impact that it is having on most classes of investments as well as individuals and corporations. This volatility, the subsequent lack of an active market for Collateralised Debt Obligations (CDO's) and a depressed market for the ADI sub-ordinated debt investments owned by Council, has created a situation whereby it continues to be extremely difficult to arrive at truly meaningful market valuations for the (CDO) element of the investment portfolio. The valuations for February have been arrived at by using a combination of CDO valuations obtained by Piper Alderman, our legal advisors in regards to the actions being pursued in respect Lehman Brothers, as well as valuations obtained from CPG Research & Advisory (Council's Independent Investment Advisor's) in respect to the ADI investments.

It should be noted that these valuations do not imply that if it were possible for the Council to liquidate the CDO's in particular, the prices received would be in line with these valuations.

Whilst there have been no known credit events that have affected Council's CDOs, since October 2008, due to the continuing difficult global economic conditions facing corporations, it is expected that further credit defaults and ultimately defaults of CDO's themselves will occur in the near future.

The estimate based on officer's valuations and valuations provided as at 28 February 2009, is that if it had been possible to dispose of all investments at the end of February, a loss of \$17,958,835 (27.70%, January 26.09%) would have been realised. The market valuation of the CDO element of the investment portfolio at the end of February represented 23.69% (January 23.69%) of its cost figure, with individual valuations ranging between 3% and 70%.

Major credit rating agencies Standard and Poors, Moodys and Fitch have also reviewed their methodology for assessing the credit ratings of CDO's. This has resulted in many of the CDO's being downgraded to levels where they are not, and would never have been, considered appropriate for inclusion in the Council's portfolio of investments. The review by the credit rating agencies of their CDO credit rating models affirms what some commentators were saying many months ago ie: that the models used to rate CDO's were flawed in some respects. This has unfortunately led to inappropriate investment by many Councils and other bodies holding public monies on the mistaken belief that the ratings applied by these agencies were sound.

C09/6000 - INVESTMENT STATEMENTS (REC) (ATTACHMENT)

This post event review by the credit rating agencies is therefore of little value to the present situation the Council finds itself in and the Council's focus must remain on recovering from the situation it finds itself in.

Loss mitigation and recovery strategies such as obtaining expert and independent advice and amending the investment policy have already been undertaken and Council officers will continue to pursue other avenues including legal action against the Council's former investment advisors and fund managers, Lehman Brothers as well as a potential class action against the ratings agencies.

Summary details of investments held at 28 February 2009 are shown in the table below.

**CITY OF MELVILLE
STATEMENT OF INVESTMENTS
FOR THE PERIOD ENDING 28th February 2009**

SUMMARY BY FUND	FACE VALUE \$	PURCHASE PRICE \$	ESTIMATED MARKET VALUE \$	BOOK PROFIT/(LOSS) \$	BOOK PROFIT/(LOSS) %
MUNICIPAL RESERVE TRUST CRF	\$ 38,722,184 \$ 25,098,163 \$ 784,485 \$ 157,329	\$ 38,769,035 \$ 25,118,250 \$ 784,485 \$ 157,329	\$ 37,559,821 \$ 8,368,630 \$ 784,485 \$ 157,329	(\$ 1,209,214) (\$ 16,749,620) \$ - \$ -	-3.12% -66.68% 0.00% 0.00%
	\$ 64,762,161	\$ 64,829,099	\$ 46,870,265	(\$ 17,958,835)	-27.70%

SUMMARY BY INVESTMENT TYPE	FACE VALUE \$	PURCHASE PRICE \$	ESTIMATED MARKET VALUE \$	BOOK PROFIT/(LOSS) \$	BOOK PROFIT/(LOSS) %
ADI CDO CAP GUARANTEED NOTE TERM DEPOSIT 11AM UNITS (Local Govt Hse)	\$ 14,500,000 \$ 21,220,000 \$ 1,150,000 \$ 21,000,000 \$ 6,661,516 \$ 230,645	\$ 14,559,078 \$ 21,227,860 \$ 1,150,000 \$ 21,000,000 \$ 6,661,516 \$ 230,645	\$ 12,903,350 \$ 5,028,254 \$ 1,046,500 \$ 21,000,000 \$ 6,661,516 \$ 230,645	(\$ 1,655,728) (\$ 16,199,607) (\$ 103,500) \$ - \$ - \$ -	-11.37% -76.31% -9.00% 0.00% 0.00% 0.00%
	\$ 64,762,161	\$ 64,829,099	\$ 46,870,265	(\$ 17,958,835)	-27.70%

SUMMARY BY RATING	FACE VALUE \$	PURCHASE PRICE \$	ESTIMATED MARKET VALUE \$	BOOK PROFIT/(LOSS) \$	BOOK PROFIT/(LOSS) %
AAA AA AA- A+ A BBB+ BBB BBB- BB+ BB B- CCC+ C UNITS (Local Govt Hse)	\$ 8,000,000 \$ 2,012,275 \$ 21,799,241 \$ 983,634 \$ 2,516,366 \$ 5,500,000 \$ 4,500,000 \$ 2,000,000 \$ 1,800,000 \$ 1,050,000 \$ 385,000 \$ 3,885,000 \$ 4,800,000 \$ 5,300,000 \$ 230,645	\$ 8,000,000 \$ 2,028,985 \$ 21,800,051 \$ 984,293 \$ 2,520,327 \$ 5,536,105 \$ 4,517,543 \$ 2,000,270 \$ 1,800,072 \$ 1,049,965 \$ 385,000 \$ 3,868,721 \$ 4,807,122 \$ 5,300,000 \$ 230,645	\$ 8,000,000 \$ 792,275 \$ 21,577,041 \$ 862,254 \$ 1,892,046 \$ 5,280,600 \$ 3,987,150 \$ 100,000 \$ 72,000 \$ 31,500 \$ 48,164 \$ 171,550 \$ 227,250 \$ 3,597,790 \$ 230,645	\$ - (\$ 1,236,710) (\$ 223,010) (\$ 122,040) (\$ 628,280) (\$ 255,505) (\$ 530,393) (\$ 1,900,270) (\$ 1,728,072) (\$ 1,018,465) (\$ 336,837) (\$ 3,697,171) (\$ 4,579,872) (\$ 1,702,210) \$ -	0.00% -60.95% -1.02% -12.40% -24.93% -4.62% -11.74% -95.00% -96.00% -97.00% -87.49% -95.57% -95.27% -32.12% 0.00%
	\$ 64,762,161	\$ 64,829,099	\$ 46,870,265	(\$ 17,958,835)	-27.70%

C09/6000 - INVESTMENT STATEMENTS (REC) (ATTACHMENT)**Credit Ratings and Credit Events**

There were no known credit rating changes in CDOs during February 2009.

Seven credit events impacting on CDOs held by the City have now been recorded. The Companies involved were the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), Lehman Brothers, WaMu, Glitnir, Kaupthing and Landsbanki. The impact on CDOs is shown below:

- Beryl Global Bank Note - Nil credit events. – remaining credit support for 1.0 credit event (Being terminated due to trustee taking control of underlying security).
- Blue Gum - Arranger HSBC Bank US – 7.0 credit events - Freddie Mac, Fannie Mae, Lehman's, WaMu, Glitnir, Kaupthing & Landsbanki – remaining credit support for 2.2 credit events.
- Esperance - Arranger Merrill Lynch International – 1.0 credit event - Lehman's – remaining credit support for 5.0 credit events.
- Glenelg - Arranger Nomura International – 2.0 credit events - Lehman's & Landsbanki – remaining credit support for 7.0 credit events.
- Green - Arranger J.P. Morgan Australia – 4.0 credit events - Lehman's, WaMu, Glitnir & Kaupthing – remaining credit support for 2.4 credit events.
- Henley A - Arranger BNP Paribas – 3.0 credit events – Freddie Mac, Fannie Mae & Lehman's – remaining credit support for 7.0 credit events.
- Kakadu - Arranger J.P. Morgan Australia – 5.0 credit events - Freddie Mac, Fannie Mae, Lehman's, WaMu & Kaupthing – remaining credit support for 6.7 defaults.
- Miami Arranger Lehman Brothers 3.0 credit events - Freddie Mac, Fannie Mae & WaMu – remaining credit support for 12.8 credit events. (Being terminated due to trustee taking control of underlying security)
- Merimbula A – Arranger Lehman Brothers 2.0 credit events - Freddie Mac & Fannie Mae – remaining credit support for 7.9 credit events. (Being terminated due to trustee taking control of underlying security)
- Parkes 1A - Arranger Morgan Stanley – 4.0 credit events - Freddie Mac, Fannie Mae, Lehman's & WaMu – remaining credit support for 5.0 credit events.
- Parkes 11A - Arranger Morgan Stanley – 4.0 credit events - Freddie Mac, Fannie Mae, Lehman's & WaMu – remaining credit support for 3.0 credit events.
- Scarborough - Arranger Merrill Lynch – 5.0 credit events - Freddie Mac, Fannie Mae, Lehman's, Kaupthing & Landsbanki – remaining credit support for 3.0 credit events.
- Torquay - Arranger J.P. Morgan – 4.0 credit events - Freddie Mac, Lehman, Glitnir & Kaupthing – remaining credit support for 4.2 credit events.

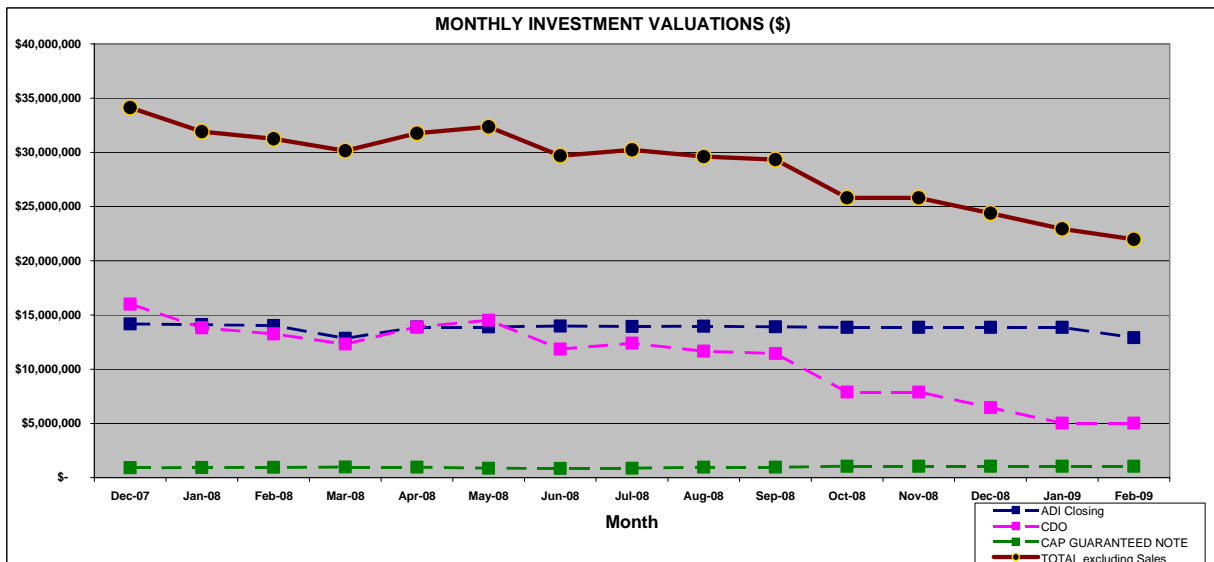
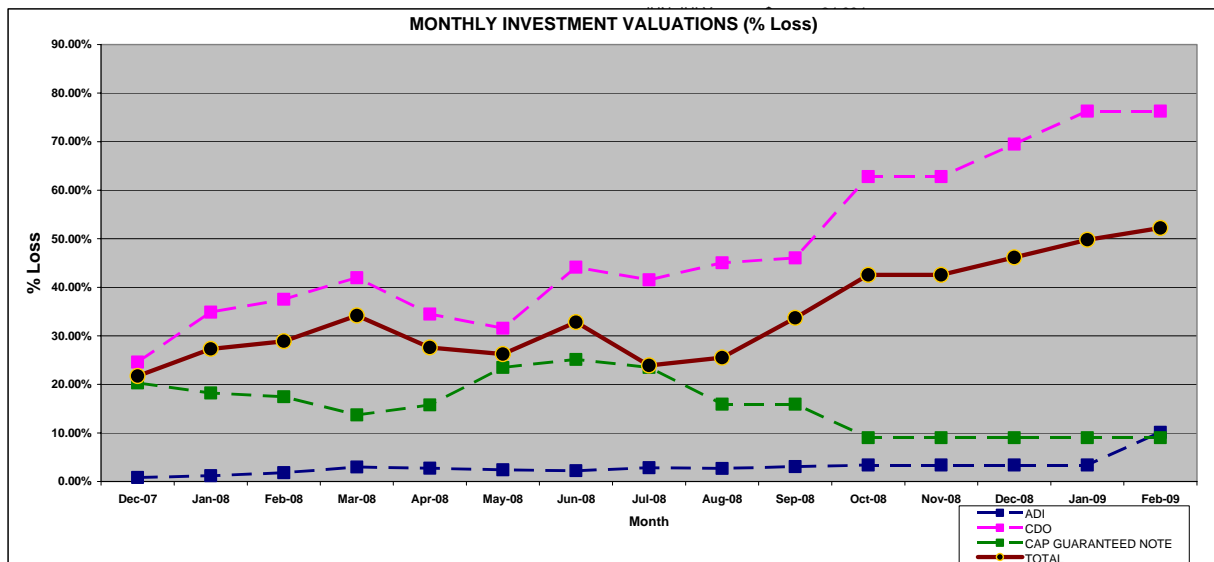
It should be noted that further investment in CDO's is specifically excluded under the current Investment Policy. No long term investments are being undertaken as the investment portfolio as previously structured by Lehman Brothers was too heavily weighted into long term products.

Statements 6000A, 6000B and the graph 6000C show the value of the investments based on cost, which is consistent with long standing practice.

C09/6000 - INVESTMENT STATEMENTS (REC) (ATTACHMENT)

Interest rates fell quite substantially in this period, with the rates for 90 day bank bills falling by 0.60% from 3.74% to 3.14%, while the 30 day rates fell by 0.89% from 4.16% to 3.27%.

The graphs below summarise movements in valuation since February 2009.



PUBLIC CONSULTATION/COMMUNICATION

This report is available to the public on the Council's web-site and hard copies of this agenda and attachments are available for viewing at the Council's 5 public libraries.

In addition the Council's bi-monthly newsletter, Mosaic, has contained several articles that highlight this issue. Numerous press articles have also been published on this topic.

C09/6000 - INVESTMENT STATEMENTS (REC) (ATTACHMENT)**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

CPG (formerly Grove) Research and Advisory the City's investment adviser have reviewed the current investment portfolio with a view to providing strategies to minimise any unnecessary risks.

In 2007 Price Waterhouse Coopers (PWC) was engaged to provide advice in regards to the appropriateness of the City's investment strategy in light of the recent volatility in the credit markets. Following the receipt of their report and further clarification, a revised investment policy was adopted.

The Department of Local Government and Regional Development issued Investment Policy Guidelines during February 2008, well after the global financial crisis, and Council's investment policy has been amended to give effect to the guidelines.

STATUTORY AND LEGAL IMPLICATIONS

The following legislation is relevant to this report:

- Local Government (Financial Management) Regulations 1996 Regulation 19 – Management of Investments.
- Trustee Act 1962 (Part 3)

Piper Alderman have been engaged to seek recovery of any losses that may eventually be realised and to seek early termination of the CDO's so that Council gains access to the more valuable collateral representing Councils original investments which is held by Trustees for the Lehman Brothers arranged CDO's.

Due to Lehman Brothers failing and entering into bankruptcy proceedings the City has not received interest payments due in September 2008 estimated at \$120,000. Subsequent quarterly payments have however now been received in relation to the Lehman Brothers arranged CDOs.

Should a class action be mounted against the ratings agencies by a suitably qualified legal firm on a no win no fees basis Council will be requested to consider joining such action.

FINANCIAL IMPLICATIONS

As at the end of February 2009, total interest excluding Reserve Fund interest earned was \$1,803,202, against a year to date budget of \$1,386,286. This represents a \$416,916 positive variance. The full year budget was revised down from \$2,550,000 to \$2,030,392, due to recent very significant reductions in interest rates.

Reserve Fund interest earned was \$961,299 against a year to date budget of \$1,000,000, a negative variance of \$38,701. The full year budget is \$1,400,000.

In accordance with the Council's revised Investment Policy any surplus investment returns derived as a result of investing in ADI's & CDO's when compared to Bank Bills or Term Deposits will be credited to the Risk Management Reserve.

C09/6000 - INVESTMENT STATEMENTS (REC) (ATTACHMENT)

The most material current financial implication in relation to the cash position of the Council relates to the book value of investments moving according to the very significant market volatility that has been experienced since July 2007, which has impacted negatively on the market price and saleability of our CDO and to a lesser extent our ADI investments.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Council's investment policy was constructed to minimise credit risk through investing in highly rated securities and diversification.

Due to the continuing and increasing credit market concerns, the risks associated with the Council's investment portfolio have also increased to levels which are of concern. Whilst the Council continues to earn and be paid interest (except for the September default by Lehman Brothers) from its CDO investments, the reassessment by the major rating agencies of their credit risk models used to assess the credit ratings associated with CDO portfolios, has resulted in significant downgrading of CDO investments to credit rating levels that would not meet the Council's investment policy. However, due to the lack of an active market for CDO's, these investments must continue to be held.

The risk of loss due to the default of CDO's is extreme whilst the risk of loss due to the default of ADI's is considered low.

Early termination of a number of the CDO's is being pursued due to the default by Lehman Brothers occasioned by their bankruptcy in the USA – this relates only to Lehman Brothers arranged CDO's.

In response to the current market conditions, funds are currently being invested for short periods and only with highly credit rated major Australian banking institutions.

POLICY IMPLICATIONS

Corporate Policy 13-PL-003 – Investment of Funds.

As resolved at the 16 December 2008 Ordinary Meeting of Council, the policy has been amended to incorporate mechanisms that protect the Council's investments from undue volatility risk as well as the risk to reputation as a result of investments that may be perceived as unsuitable by the Community.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable.

C09/6000 - INVESTMENT STATEMENTS (REC) (ATTACHMENT)**CONCLUSION**

The current position and outlook in regards to the Council's CDO investments is very poor. It should be noted that the CDO's are structured in such a manner so as to provide for a level of defaults of a number of the entities referenced by the CDO's before there is loss of value at maturity of the CDO's themselves. In light of the extreme downturn being experienced in many world economies the risk of defaults of corporations referenced by CDO's owned by the City has increased significantly. The perceived view at the time of writing is that the economic situation, although appearing to have stabilised somewhat, will result in still further corporate failures some of which may be represented in CDO's owned by the City

It should also be noted however that the concerns with these investments will not impact on the Council's day to day operations or capital works programme as adequate funding is available to carry out the works identified in the Council's 2008/2009 Budget. Due to the long term nature of these investments, future impacts will be determined as the credit market situation becomes clearer.

OFFICER RECOMMENDATION (6000)**NOTING**

That the Investment Statements for the month of February 2009, as detailed in the following attachments be noted:

[6000A February 2009](#)

[6000B February 2009](#)

[6000C February 2009](#)

C09/6001 – SCHEDULE OF ACCOUNTS (REC) (ATTACHMENT)

Ward : All
 Category : Operational
 Subject Index : Financial Statement and Investments
 Customer Index : Not applicable
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Standard Item
 Works Programme : Not Applicable
 Funding : 2008/2009 Budget
 Responsible Officer : Dudley Smith
 Manager Financial Services

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

C09/6001 – SCHEDULE OF ACCOUNTS (REC) (ATTACHMENT)**KEY ISSUES / SUMMARY**

- This report presents details of the payments made to suppliers for the provision of goods and services for the month of February 2009 and recommends that the Schedule of Accounts be noted.

BACKGROUND

Delegated Authority 13-DA-015 has been granted to the Chief Executive Officer to make payments from the Municipal and Trust Funds. This authority has then been on-delegated to the Director Corporate Services. In accordance with Regulation 13.2 and 13.3 of the Local Government (Financial Administration) Regulations 1996 where this power has been delegated, a list of payments for each month is to be compiled and presented to the Council. The list is to show each payment, payee name, amount and date of payment and sufficient information to identify the transaction.

DETAIL

The Schedules of Accounts for the period ending 28 February 2009, [6001 February 2009](#) including Payment Registers numbers 83 to 89 were distributed to the Members of Council on Friday 21 April 2009.

Payments in excess of \$50,000 in the month were as follows:-

- Boral Construction – E013627 – Road Resurfacing Costs - \$203,014.05
- City of Cockburn – E013417 & E13631 – Waste Tip Fees - \$81,253.01
- Dickies Tree Service – E013423 & E013636 – Tree Pruning Services - \$57,588.30
- Flexi Staff – E013455 & E013661 – Temporary Contract Staff for Parks and Gardens and Waste Removal - \$77,764.68
- GHD Pty Ltd – E013552 – Consultancy Service for Visionary & Design Workshop - \$57,202.70
- Landfill Gas & Power – E013619 – Electricity Usage - \$55,598.77
- LGIS Workcare – E013580 – Workers Compensation Contributions for 2007/08 - \$61,974.00
- Southern Metro Regional council – E013536 & E013713 – Recycling & Waste Collection - \$412,381.45
- WA Hino Sales & Service – E013551 & E013727 – Purchase of 1 Hino Ranger Pro 6 Truck - \$139,930.59
- Westside Concrete – E013622 – Construction and Maintenance of Footpaths - \$59,350.32

C09/6001 – SCHEDULE OF ACCOUNTS (REC) (ATTACHMENT)

PUBLIC CONSULTATION/COMMUNICATION

Not applicable.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Not applicable.

STATUTORY AND LEGAL IMPLICATIONS

This report meets the requirements of the Local Government (Financial Management) Regulations 1996 Regulation 11 - Payment of Accounts, Regulation 12 - List of Creditors and Regulation 13 - Payments from the Trust Fund and the Municipal Fund.

FINANCIAL IMPLICATIONS

Expenditures were provided for in the 2008/2009 Budget.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

Management Procedure 1.8 - Certification of Accounts.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable.

CONCLUSION

This is a regular monthly report for Elected Members information.

OFFICER RECOMMENDATION (6001)

NOTING

That the Schedule of Accounts for the period ended 28 February 2009, as approved by the Director Corporate Services in accordance with Delegated Authority 13-DA-015, and detailed in attachment [6001 February 2009](#) be noted.

C09/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2009 (AMREC)
(ATTACHMENT)

Ward : All
 Category : Operational
 Subject Index : Financial Statements and Investments
 Customer Index : Not applicable
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Standard Item
 Works Programme : Not applicable
 Funding : Not applicable
 Responsible Officer : Dudley Smith
 Manager Financial Services

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>when Council review decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

KEY ISSUES / SUMMARY

- This report presents the financial statements to the end of February 2009 and recommends that they be noted by the Council.

**C09/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2009 (AMREC)
(ATTACHMENT)**

BACKGROUND

The Financial Statements for the end of the month of February 2009 have been prepared and tabled in accordance with the Local Government (Financial Management) Regulations 1996 as amended.

DETAIL

The attached reports have been prepared in compliance with the requirements of the legislation.

To the end of February, a net operating positive variance of \$3.59m was recorded. Net capital expenditure remains \$5.10m under expended.

The majority of these variances reflect the phasing of budgets, unexpended capital expenditure carry forwards to 2009/10 and an estimated \$1.5m planned surplus that was identified in the half yearly budget review. This will need to be further refined as Responsible Officers review their management reports at the end of the financial year.

This is in addition to other permanent variances that were the subject of a separate Budget Review report C08/6018, which was submitted to Council at its 16th of December 2008 meeting. These permanent variances have been incorporated into the report.

Investments have been valued at the cost of acquisition for the purpose of these monthly reports.

Variances

An analysis of the significant variances are identified below.

	February Actual+Comm \$	YTD Budget \$	YTD Actual+Comm \$	Variance %	Annual Budget \$
Revenues					
Governance	54,217	895,254	774,005	-14%	1,294,500
General Purpose Funding	962,962	4,690,528	5,266,564	12%	5,954,000
Health	1,848	112,414	133,093	18%	121,250
Transport	171,454	3,447,557	2,941,772	-15%	5,250,754
Other Property and Services	35,585	1,071,976	525,588	-51%	494,075
	2,153,432	30,984,779	30,332,074	-2%	38,211,583
Expenses					
Governance	(1,182,343)	(10,609,275)	(9,171,253)	-14%	(15,015,310)
Law, Order, Public Safety	(407,889)	(3,421,657)	(3,057,323)	-11%	(5,182,214)
Health	(61,013)	(530,586)	(443,075)	-16%	(773,314)
Education & Welfare	(441,188)	(2,860,771)	(2,420,759)	-15%	(3,849,530)
Economic Services	(72,251)	(114,712)	(144,183)	26%	(120,570)
Other Property and Services	(146,561)	(1,065,974)	(1,577,381)	48%	(1,273,879)
	(7,822,902)	(54,237,601)	(50,806,971)	-6%	(79,539,455)

**C09/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2009 (AMREC)
(ATTACHMENT)**

Revenue

- Governance – 14% under budget due mainly to a marked slow down in development applications and therefore development application fee receipts.
- General Purpose Funding – 12% over budget due to slightly higher than budgeted rates and general purpose grant revenue and higher returns on Municipal investment earnings when compared to the revised budget as adjusted during the mini budget review conducted in December 2008. This has been addressed as part of the mid year budget review.
- Health – 18% over budget due mainly to an increase in licence fees collected from health licensing fees.
- Transport – 15% under budget due mainly to grant income for road related projects not having been claimed as yet due to the relevant projects not being undertaken or not yet completed.
- Other Property & Services – 51% under budget due mainly to lower proceeds from the disposal of vehicle and plant assets, as a result of a revised fleet replacement policy.

Expenditure

- Governance – 14% under budget due mainly to lower employee costs across all areas.
- Law, Order & Public Safety – 11% under budget due mainly to Community Security and Swimming Pool Inspections lower employee costs.
- Health – 16% under budget due mainly to staff vacancies.
- Education & Welfare – 15% under budget due mainly to Community Services & Development lower employee costs and Meals on Wheels lower food catering costs.
- Other Property & Services – 53% over budget due mainly to Fleet costs not being allocated out to plant items.

The following attachments form part of the Attachments to the Agenda, which was distributed to the Members of the Council on Friday 28 February 2009.

DESCRIPTION	LINK
Statement of Financial Activity – February 2009	6002A February 2009
Operating Statements by Program for the period ended 28 February 2009	6002B February 2009
Representation of Working Capital as at February 2009	6002E February 2009
Reconciliation of Net Working Capital as at 28 February 2009	6002F February 2009
Notes on Operating Statements for February 2009 reporting on variances of 10% or greater	6002H February 2009
Details of Budget Amendments requested during the month of February 2009	6002J February 2009

C09/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2009 (AMREC)
(ATTACHMENT)

Summary of Rates debtors as at 28 February 2009	6002L February 2009
Graph showing Rates collections as at 28 February 2009	6002M February 2009
Summary of general debtors aged 90 days old or greater as at 28 February 2009	6002N February 2009

PUBLIC CONSULTATION/COMMUNICATION

Not applicable.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Not applicable.

STATUTORY AND LEGAL IMPLICATIONS

Local Government Act 1995 Division 3 – Reporting on Activities and Finance Section 6.4 – Financial Report.

Local Government (Financial Regulations) 1996 Part 4 – Financial Reports
Regulation 34 of the Local Government (Financial Management) Regulations 1996 as amended in March 2005, requires that:

- (1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail -
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
 - (b) budget estimates to the end of the month to which the statement relates;
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing-
 - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
 - (b) an explanation of each of the material variances referred to in sub-regulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.

**C09/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2009 (AMREC)
(ATTACHMENT)**

- (3) The information in a statement of financial activity may be shown-
 - (a) according to nature and type classification;
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in sub-regulation (2), are to be-
 - (a) presented to the council-
 - (i) at the next ordinary meeting of the council following the end of the month to which the statement relates; or
 - (ii) if the statement is not prepared in time to present it to the meeting referred to in subparagraph (i), to the next ordinary meeting of the council after that meeting;
 - and
 - (b) recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with AAS 5, to be used in statements of financial activity for reporting material variances.

FINANCIAL IMPLICATIONS

Amendments to the 2008/2009 Budget have been included in the budget amendment reports.

Further amendments will be necessary in response to several significant variances that have or are expected to be realised over the course of the financial year.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

Not applicable.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable.

CONCLUSION

The attached reports reflect the financial situation of the City of Melville as at 28 February 2009.

**C09/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2009 (AMREC)
(ATTACHMENT)**

OFFICER RECOMMENDATION (6002)

ABSOLUTE MAJORITY

1. That the Statements of Financial Activity and the Operating Statements for the period ending 28 February 2009 as detailed in the following attachments be adopted:

DESCRIPTION	LINK
Statement of Financial Activity – February 2009	6002A February 2009
Operating Statements by Program for the Period Ended 28 February 2009	6002B February 2009
Representation of Working Capital as at February 2009	6002E February 2009
Reconciliation of Net Working Capital as at 28 February 2009	6002F February 2009
Notes on Operating Statements for February 2009 Reporting on Variances of 10% or Greater	6002H February 2009
Summary of Rates Debtors as at 28 February 2009	6002L February 2009
Graph Showing Rates Collections as at 28 February 2009	6002M February 2009
Summary of General Debtors Aged 90 Days Old or Greater as at 28 February 2009	6002N February 2009

2. That by Absolute Majority Decision, the budget amendments, as listed in the Budget Amendment Reports for February 2009, as detailed in attachment [6002J February 2009](#) be adopted.

15. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

16. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL

17. EN BLOC ITEMS

18. CLOSURE